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IAB CASE NO. **IV2299474**

COUNTY OF LOS ANGELES
SHERIFF'S DEPARTMENT

ADMINISTRATIVE INVESTIGATIVE SUMMARY

DATE: Between July 19, 2011 and October 12, 2011

LOCATION: Transportation Bureau
441 Bauchet Street
Los Angeles, California 90012

IAB #: **IV2299474**

SUBJECTS: Oscar Nunez # [redacted]
Deputy Sheriff Generalist
Transportation Bureau
Court Services Division

[redacted]
Deputy Sheriff Generalist
Transportation Bureau
Court Services Division

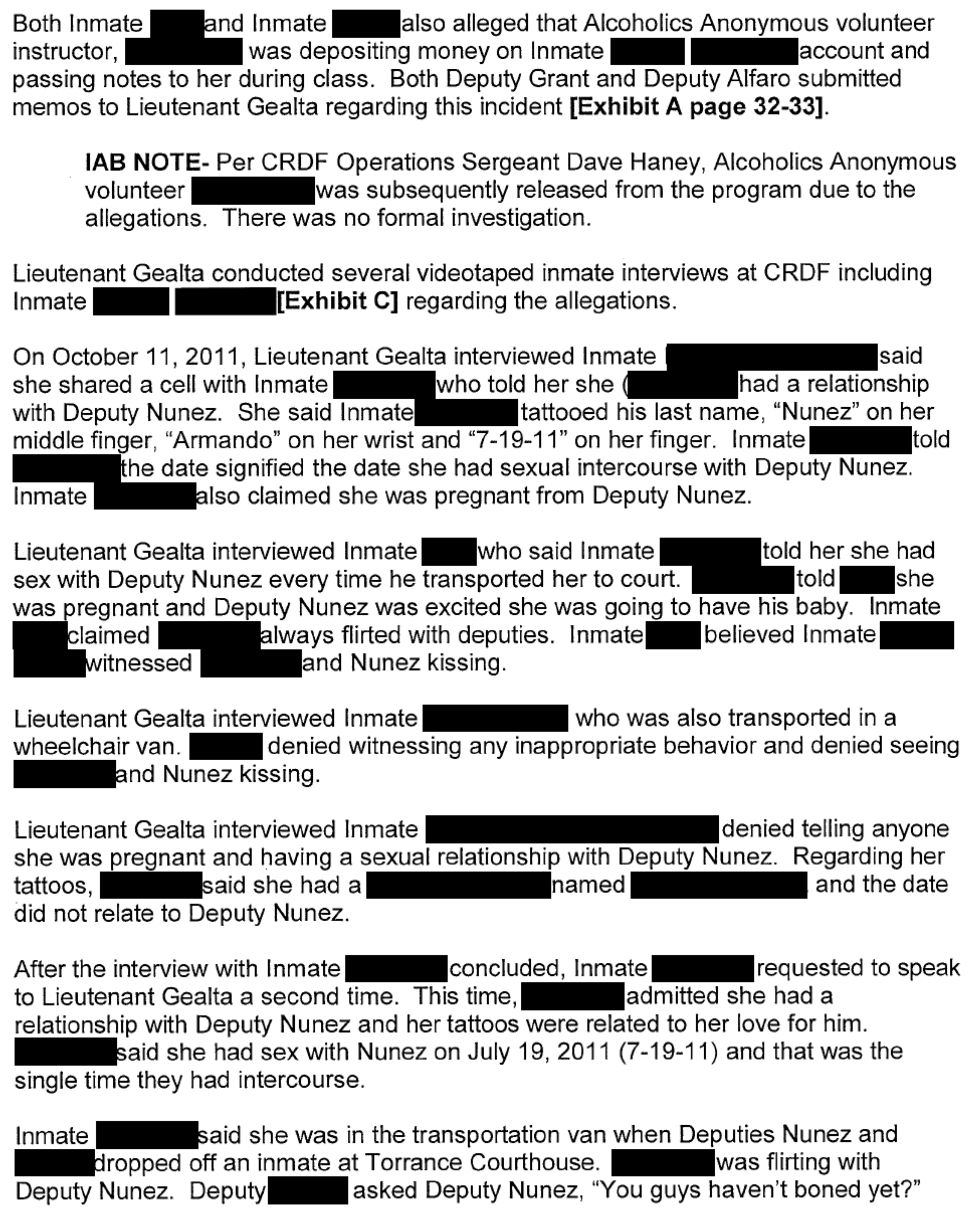
ALLEGATION

Inmate [redacted] alleged sexual misconduct by Deputy Oscar Nunez and Deputy [redacted] while inside a Sheriff's Department transportation vehicle. Inmate [redacted] further alleged Deputy [redacted] threatened her while pointing his handgun at her.

SYNOPSIS

On October 11, 2011, Century Regional Detention Facility Inmates [redacted] and [redacted] reported to Deputy Connie Grant that Inmate [redacted] was bragging she had a sexual relationship with Deputy Oscar Nunez on her way to court in a wheel chair transportation van. Deputy Grant informed Deputy Carlos Alfaro of these allegations who in turn, notified Lieutenant Diana Gealta.

> **IAB NOTE-** Inmate [redacted] was injured in a car accident and required special transportation for court, to accommodate her wheelchair.



Both Inmate [redacted] and Inmate [redacted] also alleged that Alcoholics Anonymous volunteer instructor, [redacted] was depositing money on Inmate [redacted] [redacted] account and passing notes to her during class. Both Deputy Grant and Deputy Alfaro submitted memos to Lieutenant Gealta regarding this incident **[Exhibit A page 32-33]**.

> **IAB NOTE-** Per CRDF Operations Sergeant Dave Haney, Alcoholics Anonymous volunteer [redacted] was subsequently released from the program due to the allegations. There was no formal investigation.

Lieutenant Gealta conducted several videotaped inmate interviews at CRDF including Inmate [redacted] [redacted] **[Exhibit C]** regarding the allegations.

On October 11, 2011, Lieutenant Gealta interviewed Inmate [redacted] said she shared a cell with Inmate [redacted] who told her she ([redacted] had a relationship with Deputy Nunez. She said Inmate [redacted] tattooed his last name, "Nunez" on her middle finger, "Armando" on her wrist and "7-19-11" on her finger. Inmate [redacted] told [redacted] the date signified the date she had sexual intercourse with Deputy Nunez. Inmate [redacted] also claimed she was pregnant from Deputy Nunez.

Lieutenant Gealta interviewed Inmate [redacted] who said Inmate [redacted] told her she had sex with Deputy Nunez every time he transported her to court. [redacted] told [redacted] she was pregnant and Deputy Nunez was excited she was going to have his baby. Inmate [redacted] claimed [redacted] always flirted with deputies. Inmate [redacted] believed Inmate [redacted] witnessed [redacted] and Nunez kissing.

Lieutenant Gealta interviewed Inmate [redacted] who was also transported in a wheelchair van. [redacted] denied witnessing any inappropriate behavior and denied seeing [redacted] and Nunez kissing.

Lieutenant Gealta interviewed Inmate [redacted] denied telling anyone she was pregnant and having a sexual relationship with Deputy Nunez. Regarding her tattoos, [redacted] said she had a [redacted] named [redacted] and the date did not relate to Deputy Nunez.

After the interview with Inmate [redacted] concluded, Inmate [redacted] requested to speak to Lieutenant Gealta a second time. This time, [redacted] admitted she had a relationship with Deputy Nunez and her tattoos were related to her love for him. [redacted] said she had sex with Nunez on July 19, 2011 (7-19-11) and that was the single time they had intercourse.

Inmate [redacted] said she was in the transportation van when Deputies Nunez and [redacted] dropped off an inmate at Torrance Courthouse. [redacted] was flirting with Deputy Nunez. Deputy [redacted] asked Deputy Nunez, "You guys haven't boned yet?"

[redacted] said Nunez took [redacted] comment as a challenge and stopped the van on a nearby street. Nunez then entered into the back of the van where [redacted] was seated. Inmate [redacted] said she performed oral sex on Nunez and they engaged in sexual intercourse. Deputy [redacted] sat in the front seat with his hat over his eyes as if he was sleeping. At one point, Deputy [redacted] saw a patrol car, so he moved the van to not attract the patrol car's attention.

Inmate [redacted] said Deputy Nunez cleaned both of them with a shirt. She said on other occasions, they have kissed and held hands. She said Deputy Nunez has never given her money or written her letters because he was afraid.

Lieutenant Gealta confirmed that Inmate [redacted] received [redacted] Social Worker [redacted] who works for that unit said Inmates are often tested for pregnancy prior to being put on [redacted] She said there was nothing in Inmate [redacted] file indicating [redacted] had told anyone about her relationship with Deputy Nunez. Supervising Nurse Carmen Alcantara said Inmate [redacted] was given a pregnancy test on April 11, 2011 with negative results.

On October 12, 2011, CRDF Sergeant Ann Devane documented the incident alleging suspicious circumstances, possible assault under color of authority **[Exhibit A page 26]**. Lieutenant Gealta submitted a memo **[Exhibit A page 21]** to CRDF Captain Stacy Lee regarding this incident.

On October 13, 2011, the case was turned over to Internal Criminal Investigations Bureau at the request of then, Transportation Bureau Captain John Clark. ICIB Sergeant Amy Hanson was assigned the investigation. She took possession of Sheriff's van # SD6291 and drove it to the Sheriff's Crime Lab for photographs and DNA analysis.

On October 14, 2011, Senior Criminalist Michelle Madrid was directed to examine the van. She identified and collected five semen samples from the rear portion of the van. These samples were tested and compared to DNA samples later collected from Deputy Nunez, Deputy [redacted] and Inmate [redacted] The DNA in the semen samples did not match the collected reference samples **[Exhibit A page 151-156]**.

On October 18, 2011, ICIB detectives interviewed Deputy Oscar Nunez and Deputy [redacted] at TST. Prior to the interview, undercover ICIB investigators observed Deputy Nunez and [redacted] meet at the "Big Bang" restaurant located at 530 Ramirez Street, Los Angeles. Both deputies moved their vehicles to the south side of the parking lot where they exited their vehicles and began a conversation.

Although the conversation could not be heard, investigators noted the two deputies appeared to be involved in an animated conversation, noted by the arm movements of Deputy Nunez. The conversation lasted approximately eight minutes.

At approximately 0553 hours, ICIB Lieutenant [redacted] and Sergeant Hanson met with Deputy [redacted] in a TST conference room. The interview was audio recorded (Refer to transcripts of interview by ICIB).

Deputy [redacted] agreed to voluntarily speak with ICIB investigators regarding an allegation an inmate made against him and his partner.

Deputy [redacted] said he was assigned to the wheelchair transportation van for the past year and a half. He had known Deputy Nunez for the past three years and they were partners for approximately six to nine months prior to that interview.

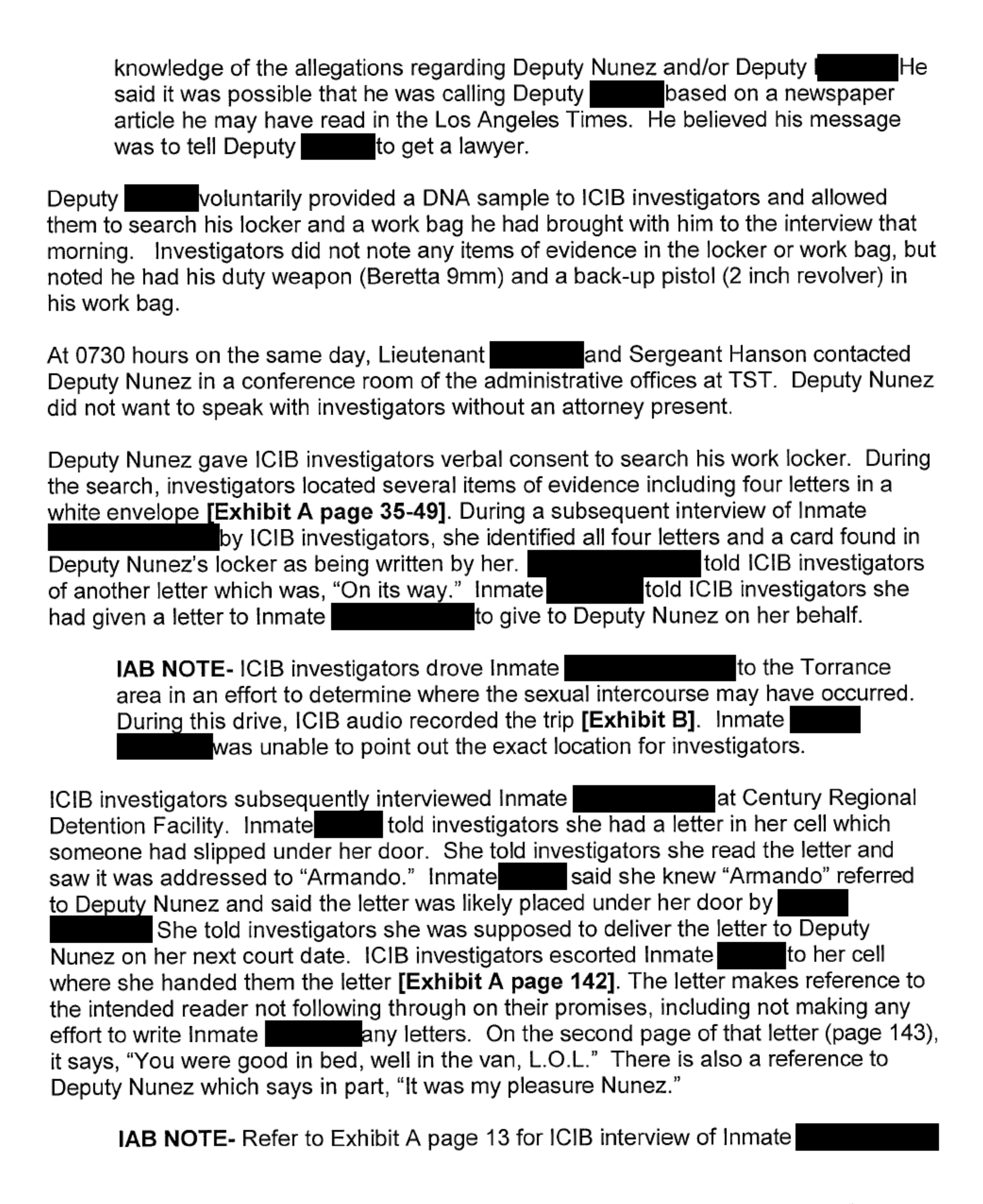
Deputy [redacted] said he knew who Inmate [redacted] was. He told investigators he knew she had been in a car accident prior to being arrested, and that was the reason she was in a wheelchair. He believed the accident was five to six months prior. Deputy [redacted] said he had never seen or heard anything inappropriate between Deputy Nunez and Inmate [redacted]

Deputy [redacted] denied meeting Deputy Nunez at the "Big Bang" restaurant saying he spoke with Deputy Nunez earlier in the morning in the employee parking lot. The meeting was to discuss why they were taken off their regular assignment.

Lieutenant [redacted] asked Deputy [redacted] for Deputy Nunez' phone number. Deputy [redacted] turned on his phone and proceeded to look through his phone book. Investigators noted Deputy [redacted] was very nervous as he looked through his phone. Deputy [redacted] attempted to use his body to shield his telephone screen from Sergeant Hanson.

Believing the phone possibly held evidence relevant to this case, Detective Hanson ordered Deputy [redacted] to give her his phone. Deputy [redacted] did so reluctantly and gave Sergeant Hanson the pass code for the phone. Sergeant Hanson briefly looked through the phone and noted a voicemail from Deputy Francisco Rodarte. Sergeant Hanson listened to the message which she later recorded on her digital recorder. The message said, "Hey partner, you there? It's all over the fucking news...." The phone was booked as evidence.

> **IAB NOTE-** In a subsequent interview of Deputy Rodarte by Internal Affairs investigators regarding the voice message on Deputy [redacted] phone, Deputy Rodarte said the voice sounded like him, but he did not recall leaving the message. Deputy Rodarte said in his interview, he did not have firsthand



knowledge of the allegations regarding Deputy Nunez and/or Deputy [redacted] He said it was possible that he was calling Deputy [redacted] based on a newspaper article he may have read in the Los Angeles Times. He believed his message was to tell Deputy [redacted] to get a lawyer.

Deputy [redacted] voluntarily provided a DNA sample to ICIB investigators and allowed them to search his locker and a work bag he had brought with him to the interview that morning. Investigators did not note any items of evidence in the locker or work bag, but noted he had his duty weapon (Beretta 9mm) and a back-up pistol (2 inch revolver) in his work bag.

At 0730 hours on the same day, Lieutenant [redacted] and Sergeant Hanson contacted Deputy Nunez in a conference room of the administrative offices at TST. Deputy Nunez did not want to speak with investigators without an attorney present.

Deputy Nunez gave ICIB investigators verbal consent to search his work locker. During the search, investigators located several items of evidence including four letters in a white envelope **[Exhibit A page 35-49]**. During a subsequent interview of Inmate [redacted] by ICIB investigators, she identified all four letters and a card found in Deputy Nunez's locker as being written by her. [redacted] told ICIB investigators of another letter which was, "On its way." Inmate [redacted] told ICIB investigators she had given a letter to Inmate [redacted] to give to Deputy Nunez on her behalf.

> **IAB NOTE-** ICIB investigators drove Inmate [redacted] to the Torrance area in an effort to determine where the sexual intercourse may have occurred. During this drive, ICIB audio recorded the trip **[Exhibit B]**. Inmate [redacted] was unable to point out the exact location for investigators.

ICIB investigators subsequently interviewed Inmate [redacted] at Century Regional Detention Facility. Inmate [redacted] told investigators she had a letter in her cell which someone had slipped under her door. She told investigators she read the letter and saw it was addressed to "Armando." Inmate [redacted] said she knew "Armando" referred to Deputy Nunez and said the letter was likely placed under her door by [redacted] She told investigators she was supposed to deliver the letter to Deputy Nunez on her next court date. ICIB investigators escorted Inmate [redacted] to her cell where she handed them the letter **[Exhibit A page 142]**. The letter makes reference to the intended reader not following through on their promises, including not making any effort to write Inmate [redacted] any letters. On the second page of that letter (page 143), it says, "You were good in bed, well in the van, L.O.L." There is also a reference to Deputy Nunez which says in part, "It was my pleasure Nunez."

> **IAB NOTE-** Refer to Exhibit A page 13 for ICIB interview of Inmate [redacted]

The case was submitted to the District Attorney's office, which ultimately declined to file criminal charges against Deputy Nunez or Deputy [redacted] (See D.A. Rejected Filing Sheet for further. Exhibit A page 20A-20G). For further and complete details regarding the ICIB investigation, refer to Exhibit A.

The case was subsequently assigned to Internal Affairs Bureau for an administrative investigation.

Internal Affairs investigators responded to Chino State Prison for Women to re-interview Inmate [redacted] and to obtain clear photos of her tattoos **[Exhibit D]**. Sergeant [redacted] (California Department of Corrections, Internal Services Unit) informed Internal Affairs investigators he had previously interviewed Inmate [redacted] while conducting misconduct allegations against one of their officers involving Inmate [redacted] He said during their videotaped interview, Inmate [redacted] mentioned to them of her involvement with a Deputy while she was incarcerated in the Los Angeles County Jail system. Sergeant [redacted] provided Internal Affairs investigators with a DVD of that interview **[Exhibit E]**.

> **IAB NOTE-** Inmate [redacted] told CDC investigators during her videotaped interview, she had a relationship with a Deputy when she was in county jail. The quote can be found at 26:22 on the video. Additionally, Inmate [redacted] said regarding the county jail incident, "I fell for him. I got his name on me and everything." This quote and other related comments can be found at 30:19 thru 33:40 on the video **[Exhibit E]**.

[redacted] told Internal Affairs investigators the tattoo of "7-19-11" signified the day she was intimate with Deputy Nunez. The "Armando" tattoo was Deputy Nunez' middle name and the "Nunez" tattoo was his last name. She reaffirmed the act of sexual intercourse occurred in a wheelchair access van. [redacted] said she received the tattoo from another inmate who she could only identify as, [redacted] She said she received the tattoo in her jail cell using a paper clip, pencil lead and shampoo.

Inmate [redacted] said Deputy [redacted] and Deputy Nunez knew about the tattoos and specifically recalled showing them to Deputy Nunez as they were going into the jail ward at LA-USC Medical Center on July 26, 2011.

> **IAB NOTE-** LCMC is equipped with surveillance cameras, however the video is only stored for thirty days, per LCMC Deputy Thomas Fisk. Any potential video of this incident was unavailable at the time of the request from Internal Affairs.

Inmate [redacted] relayed much the same incident as she had told previous investigators in this case, adding that she [redacted]

[redacted]

[redacted]
According to Inmate [redacted] the only person she had sexual intercourse with was Deputy Nunez. Inmate [redacted] appeared to have knowledge of Deputy Nunez's personal life such as; marital status, children, hobbies, vehicles, birth date, etc.

In a letter found in Deputy Nunez's locker **[Exhibit A page 45]** there is reference to [redacted] and a phone number for Deputy Nunez to contact her. [redacted] was questioned regarding her [redacted] knowledge of Deputy Nunez. [redacted] said her [redacted] knew everything, but was concerned about getting her [redacted] involved. Subsequently, Ms. [redacted] was interviewed by an Internal Affairs investigator regarding her knowledge of Deputy Nunez. Ms. [redacted] denied knowing any specifics, except to say she knew of a deputy who was nice to [redacted] while he transported her to court. Ms. [redacted] said the deputy never contacted her in any way.

Inmate [redacted] was questioned regarding the letter **[Exhibit A page 142]** she had given to Inmate [redacted] Investigators wanted to know what she was referring to when she wrote about Armando not keeping his promise. Inmate [redacted] said she was referring to Deputy Nunez not keeping his promise to write letters to her.

Deputy Nunez was interviewed by Internal Affairs investigators and denied having sexual intercourse with Inmate [redacted] He denied prior knowledge of any of the letters obtained from ICIB investigators, with the exception of letter #3 **[Exhibit A page 43]**. He said he read the letter after finding it inside an envelope which had been left in the back of the van by Inmate [redacted]

Deputy Nunez said after dropping off Inmate [redacted] she told him she had left something in the back of the van. Deputy Nunez said Inmate [redacted] looked back at him and said, "Oscar I left something in the van." He located the envelope with letter #3 sticking out of it. He said he read the letter to make sure it wasn't a "kite" or something like that.

> **IAB NOTE-** *Kite* is jail slang, referring to written communications between inmates that could be considered contraband if it were to contain unauthorized communication such as; jail escape plans, threats, etc.

He said he read the letter and saw it wasn't addressed to him and noted it was a bunch of "gibberish." He put the letter back into the envelope and didn't read the remaining letters.

He later placed the envelope in his locker with intentions on returning the envelope to Inmate [redacted] Deputy Nunez said he left for vacation and upon his return; the letters were confiscated by ICIB investigators.

Deputy Nunez was asked how Inmate [redacted] would have knowledge of his personal information. He attributed her knowledge of his personal information to open conversations he and Deputy [redacted] had in the transportation van, in the presence of inmates, including Inmate [redacted] Inmate [redacted] knew Deputy Nunez had a motorcycle. Deputy Nunez said he owns a [redacted] motorcycle. Inmate [redacted] said she knew Deputy Nunez was a [redacted]. Deputy Nunez said he is a [redacted]. Inmate [redacted] said Deputy Nunez's birthday was [redacted] or [redacted]. Deputy Nunez's birthday is [redacted].

Deputy Nunez told Internal Affairs investigators during his interview, about an inmate ([redacted]) who handed him a card in a brown envelope. He looked at it and immediately tore it up and threw it in the trash. He said the card was not addressed to anyone in particular, but [redacted] had told him it was from, "Our friend." Deputy Nunez said he assumed the card was from Inmate [redacted] He said he assumed that because [redacted] and [redacted] were cell mates.

> **IAB NOTE-** Inmate [redacted] was interviewed by ICIB investigators. For further, refer to Exhibit A page 16.

Deputy Nunez told Internal Affairs investigators he didn't mind [redacted] addressing him as, "Oscar." He said he did not demand that sort of respect from her except to say he had instructed her to address him as Deputy Nunez only while in the presence of other deputy personnel. He said he didn't want anyone, including any supervisor, disciplining her for disrespecting him. Several times throughout the Internal Affairs interview, Deputy Nunez made mention he didn't want to get Inmate [redacted] in trouble for anything she did, which was his reasoning for not telling a supervisor about any inappropriate behavior by Inmate [redacted] Deputy Nunez said he referred to Inmate [redacted] as, [redacted] or [redacted]

Deputy Nunez was questioned regarding his knowledge of any tattoos Inmate [redacted] had. Deputy Nunez said in part, "Yes I do know she has tattoos. She tattooed my last name on her index finger." Deputy Nunez said he knew the tattoo was for him although Inmate [redacted] had denied to Deputy Nunez, the tattoo referred to him. Deputy Nunez said he believed the tattoo referred to him because of, "all the talks and the affection (Refer to Deputy Nunez transcripts page 27)."

Deputy Nunez did not report this tattoo incident to any supervisor. Deputy Nunez was questioned regarding his definition of the word affection. He defined *affection* as, "Having a conversation with somebody."

Deputy Nunez claimed his partner, Deputy [redacted] had also seen the "Nunez" tattoo and he was very upset with Inmate [redacted] for having the tattoo. Deputy Nunez said he knew it was a new tattoo because he hadn't noticed it on any prior occasion. Deputy Nunez also said it looked like a fresh tattoo because of the redness around the area where the tattoo was located.

Deputy [redacted] was interviewed by Internal Affairs investigators. He denied knowledge of Deputy Nunez having sexual intercourse with Inmate [redacted] and denied threatening her with a gun. Deputy [redacted] was shown photographs of Inmate [redacted] tattoos which he said he had never seen before. He indicated he had no knowledge of the tattoos until he learned of them as a result of this investigation.

Contrary to Deputy Nunez statements, Deputy [redacted] said Inmate [redacted] did not address him and his partner by their first names. Additionally, Deputy [redacted] said he and Deputy Nunez did not have open personal conversations in the presence of inmates, and agreed that speaking about personal issues in the presence of inmates would be an officer safety issue. Deputy [redacted] could not recall having a conversation in the presence of inmates regarding Deputy Nunez's middle name of Armando, adding he did not know Deputy Nunez's middle name was Armando.

The following interview summaries are based on statements given during audio or video recorded interviews by the subjects and witnesses. For complete and detailed statements, refer to the digital audio/video recorded files or the verbatim transcripts, which are included in this investigation.

COMPLAINANT INTERVIEW

Inmate [redacted]

On October 17, 2012 Inmate [redacted] was interviewed by Internal Affairs investigators at Chino State Prison for Women.

Inmate [redacted] was shown photocopies of the letters ICIB investigators retrieved during their investigation. [redacted] acknowledged those were the letters she wrote to Deputy Nunez. She said she was in love with Deputy Nunez but no longer had feelings for him.

She said she personally handed Deputy Nunez several letters and other letters were given to Deputy Nunez by another inmate (specifically Inmate [redacted]) on

behalf of Inmate [redacted] Inmate [redacted] said she wrote Deputy Nunez "a lot" of letters (more than what was found by ICIB), including pictures and cards. She estimated she gave Deputy Nunez 15-20 letters.

In a letter dated October 5, 2011 **[Exhibit A page 142]**. It appears to be written with animosity toward Deputy Nunez. Inmate [redacted] said she was upset with Deputy Nunez at the time because had had promised to give her some letters from him before he went on vacation.

Regarding the allegation of Deputy [redacted] threatening her and pointing his gun at her; Inmate [redacted] relayed the same information she had told previous investigators. She said Deputy Nunez was in the van when this occurred, adding that she felt stupid because Deputy Nunez didn't say anything. She said in part, "You would think the person I just not too long ago was intimate with, when his friend does that, he would say something. But he didn't. He acted like nothing but a little punk bitch."

Inmate [redacted] said Deputy [redacted] was the only one worried about her ([redacted] saying anything. She said Deputy Nunez didn't care because he was going to quit work anyways. Inmate [redacted] said Deputy Nunez was not concerned about receiving letters from her. She said he was the one who asked her to write them.

Inmate [redacted] said she was diagnosed with [redacted] after her car accident. She said she was taking [redacted] and [redacted]. She said she only started taking medication after her arrest. Inmate [redacted] said she only had sexual intercourse with Deputy Nunez on one occasion, adding they both kissed on numerous occasions between May and July, 2011. She said they would kiss when she [redacted] was either the first person into the van, or the last person to get out of the van because if she was moved in any other order, there would be other inmates who could see them kissing.

Inmate [redacted] told Internal Affairs investigators she had not been in contact with Deputy Nunez. She said at one time she had his cell phone number but threw it away after Deputy Nunez didn't show up to court for her trial which began in mid-October, adding that she didn't get to see him for his birthday. She said his birthday was [redacted] and said she had given him a birthday card. Inmate [redacted] said when she handed Deputy Nunez the birthday card; he was nearly caught by a Sergeant. She said Deputy Nunez immediately reacted and put the card inside his shirt.

> **IAB NOTE-** According to Department resources, Deputy Nunez's birthday is [redacted].

Investigators questioned Inmate [redacted] regarding her knowledge of Deputy Nunez's personal information. She said she knew he had a [redacted], he was [redacted] he had

[redacted] rode a motorcycle and he lived by himself. She also said she knew one of his [redacted] lives with him and that Deputy Nunez was going on vacation. Although Inmate [redacted] did not recall where Deputy Nunez was going on vacation, she did recall he was going to the mountains (refer to IAB transcripts of Inmate [redacted] page 30).

WITNESS INTERVIEWS

Deputy Francisco Rodarte # [redacted]

On January 2, 2013, Deputy Rodarte was interviewed by Internal Affairs investigators in the Watch Commanders' office at Transportation Bureau.

The interview was to determine if Deputy Rodarte had information regarding the allegations made against Deputy Nunez and/or Deputy [redacted] Deputy Rodarte's name was discovered by Internal Criminal Investigations Bureau investigators when they took possession of Deputy [redacted] cellular phone during their investigation. ICIB investigators located a voicemail message on Deputy [redacted] phone that said, "This is Rodarte. That shit is all over the fucking news….." The end of the message is inaudible.

Deputy Rodarte said the voice sounded like him, but he did not recall leaving the message. Deputy Rodarte said in his interview, he did not have firsthand knowledge of the allegations regarding Deputy Nunez and/or Deputy [redacted] He said it was possible that he was calling Deputy [redacted] based on a newspaper article he may have read regarding the allegations. He believed his message was to tell Deputy [redacted] to get a lawyer.

[redacted]

On December 10, 2012, an Internal Affairs investigator conducted a recorded telephone interview in Spanish of [redacted] identified herself as the [redacted] of [redacted]

Ms. [redacted] said while [redacted] was incarcerated in the Los Angeles County Jail, [redacted] said there was a deputy who was very nice to her ([redacted] Ms. [redacted] denied knowing any specifics regarding the deputy, except to say he was the deputy who transported [redacted] to court.

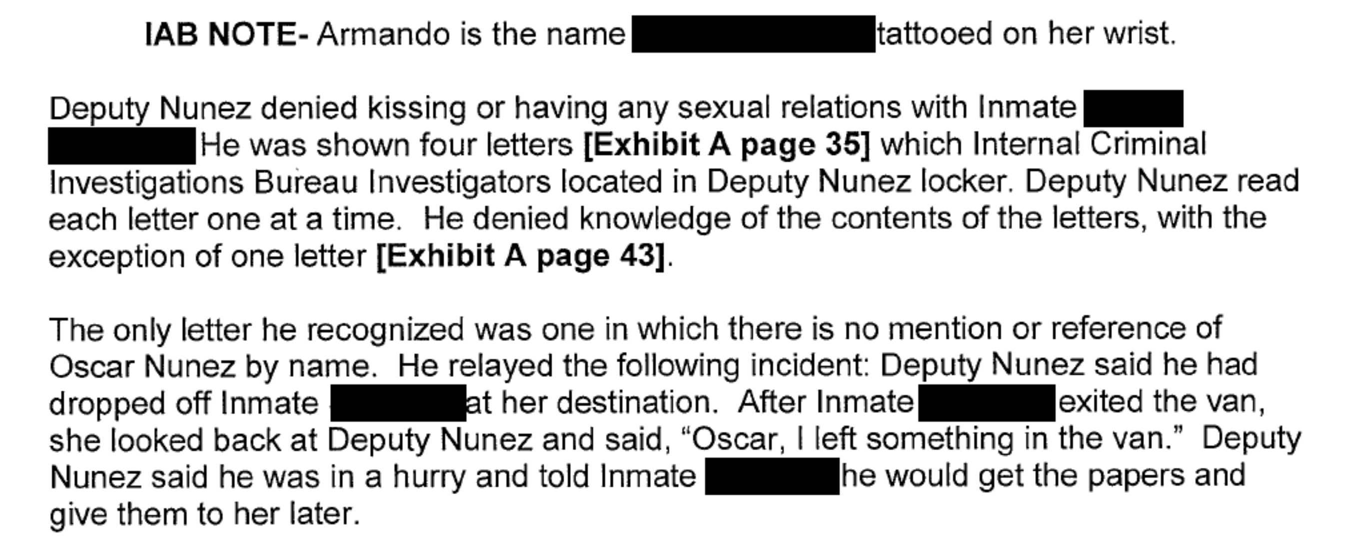
Ms. [redacted] said the deputy never contacted her in any way, including any phone calls or mail correspondence.

SUBJECT INTERVIEWS

Deputy Oscar Nunez # [redacted]

Deputy Nunez was interviewed by Internal Affairs investigators on November 1, 2012. He was represented by his attorney, Adam Marangell. At the beginning of the interview Deputy Nunez was asked by Internal Affairs investigators in part, to state his *full* name. Deputy Nunez responded with, "Oscar A. Nunez." It required a follow-up question from investigators, for Deputy Nunez to say his middle name was "Armando."

> **IAB NOTE-** Armando is the name [redacted] tattooed on her wrist.



Deputy Nunez denied kissing or having any sexual relations with Inmate [redacted] He was shown four letters **[Exhibit A page 35]** which Internal Criminal Investigations Bureau Investigators located in Deputy Nunez locker. Deputy Nunez read each letter one at a time. He denied knowledge of the contents of the letters, with the exception of one letter **[Exhibit A page 43]**.

The only letter he recognized was one in which there is no mention or reference of Oscar Nunez by name. He relayed the following incident: Deputy Nunez said he had dropped off Inmate [redacted] at her destination. After Inmate [redacted] exited the van, she looked back at Deputy Nunez and said, "Oscar, I left something in the van." Deputy Nunez said he was in a hurry and told Inmate [redacted] he would get the papers and give them to her later.

Deputy Nunez said he retrieved the stack of papers from the van. There was one letter sticking out of the envelope which drew his attention. According to Deputy Nunez, he read the letter to ensure it didn't contain anything which would consider it contraband. He determined the letter was not contraband and placed the letter back in the envelope without reading the remainder of the letters. In regards to the letter Deputy Nunez admitted to reading, he said, "It wasn't to me. It wasn't. So I figure, okay, there's nothing really on it." He then placed the envelope containing the letters in his personal bag in the front of the van and later placed the envelope in his locker where it was subsequently found by ICIB investigators.

Deputy Nunez was questioned by Internal Affairs investigators regarding Inmate [redacted] addressing him by his first name, Oscar. In short, Deputy Nunez said Inmate [redacted] addressed him as Oscar and he didn't mind. He said he had instructed her in the past for her to address him as Deputy in the presence of other Deputies. He said he didn't mind her calling him Oscar when it was just him and his partner; such as in the transport van.

Deputy Nunez said Inmate [redacted] knew a lot of personal information about him including his middle name, Armando. He said he and his partner, Deputy [redacted] would often talk about personal life issues in the presence of inmates. Deputy Nunez said at the time, he didn't realize the inmates were listening to their (Nunez and [redacted] conversation.

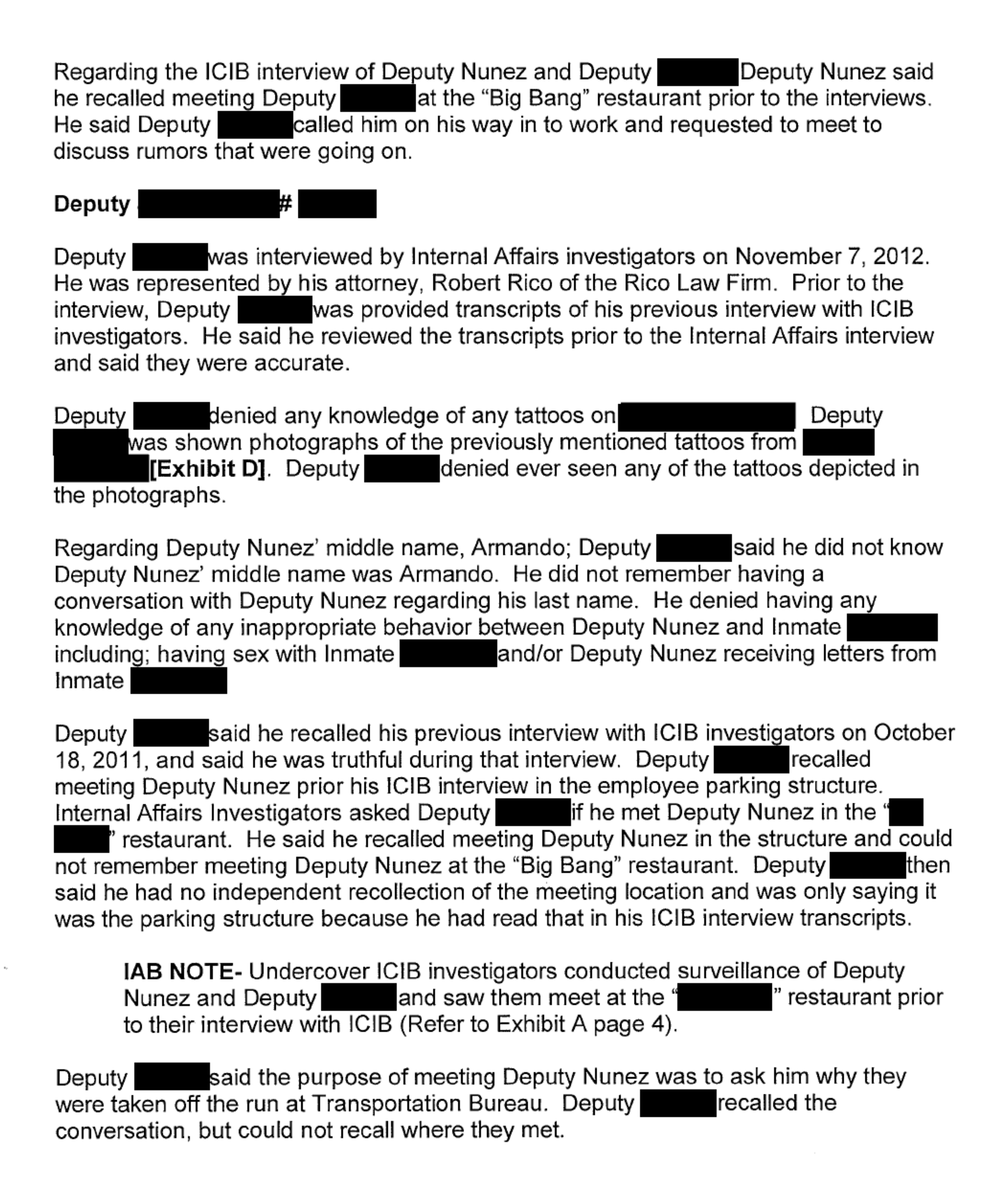
Deputy Nunez relayed another incident where another inmate handed him a greeting card on behalf of Inmate [redacted] He said he looked at the card, thought it was inappropriate and tore it up. He did not report that incident to a supervisor. Deputy Nunez said he never reported any inappropriate behavior from Inmate [redacted] to any supervisor because he didn't want her to get in trouble and lose her privileges. Deputy Nunez said he understood that inmates lose privileges when they come to jail and he didn't want to take away what few privileges (phone calls, visits, etc.) they do have while they are incarcerated. Deputy Nunez said if he was in jail, he would want to see his family members during visits and talk to his [redacted]

Deputy Nunez was questioned regarding his knowledge of any tattoos Inmate [redacted] had. Deputy Nunez said in part, "Yes I do know she has tattoos. She tattooed my last name on her index finger." Deputy Nunez said he knew the tattoo was for him although Inmate [redacted] had denied to Deputy Nunez, the tattoo referred to him. Deputy Nunez said he believed the tattoo referred to him because of, "all the talks and the affection." Deputy Nunez did not report this tattoo incident to any supervisor. Deputy Nunez was questioned regarding his definition of the word affection. He defined *affection* as, "Having a conversation with somebody (Refer to page 27 of Deputy Nunez transcript)."

In a card found in Deputy Nunez's locker by ICIB investigators **[Exhibit A page 46 and 47]**, it is addressed to Armando from [redacted]. [redacted] is tattooed on Inmate [redacted] left ring finger (opposite finger from the Nunez tattoo which is on her right ring finger). Deputy Nunez said he didn't know Inmate [redacted] goes by the nickname, [redacted] Several of the letters found in Deputy Nunez's locker, including the envelope were signed with the nickname "[redacted]."

> **IAB NOTE-** Inmate [redacted] said her nickname is [redacted]' She has "[redacted]" tattooed on her left ring finger.

[redacted] When Deputy Nunez was questioned as to how Inmate [redacted] would have known any of his personal information; he denied personally giving Inmate [redacted] the information. He said several times, Inmate [redacted] overheard personal conversations between him and his partner, Deputy [redacted]



Regarding the ICIB interview of Deputy Nunez and Deputy [redacted] Deputy Nunez said he recalled meeting Deputy [redacted] at the "Big Bang" restaurant prior to the interviews. He said Deputy [redacted] called him on his way in to work and requested to meet to discuss rumors that were going on.

Deputy [redacted]# [redacted]

Deputy [redacted] was interviewed by Internal Affairs investigators on November 7, 2012. He was represented by his attorney, Robert Rico of the Rico Law Firm. Prior to the interview, Deputy [redacted] was provided transcripts of his previous interview with ICIB investigators. He said he reviewed the transcripts prior to the Internal Affairs interview and said they were accurate.

Deputy [redacted] denied any knowledge of any tattoos on [redacted] Deputy [redacted] was shown photographs of the previously mentioned tattoos from [redacted] **[Exhibit D]**. Deputy [redacted] denied ever seen any of the tattoos depicted in the photographs.

Regarding Deputy Nunez' middle name, Armando; Deputy [redacted] said he did not know Deputy Nunez' middle name was Armando. He did not remember having a conversation with Deputy Nunez regarding his last name. He denied having any knowledge of any inappropriate behavior between Deputy Nunez and Inmate [redacted] including; having sex with Inmate [redacted] and/or Deputy Nunez receiving letters from Inmate [redacted]

Deputy [redacted] said he recalled his previous interview with ICIB investigators on October 18, 2011, and said he was truthful during that interview. Deputy [redacted] recalled meeting Deputy Nunez prior his ICIB interview in the employee parking structure. Internal Affairs Investigators asked Deputy [redacted] if he met Deputy Nunez in the "[redacted]" restaurant. He said he recalled meeting Deputy Nunez in the structure and could not remember meeting Deputy Nunez at the "Big Bang" restaurant. Deputy [redacted] then said he had no independent recollection of the meeting location and was only saying it was the parking structure because he had read that in his ICIB interview transcripts.

> **IAB NOTE-** Undercover ICIB investigators conducted surveillance of Deputy Nunez and Deputy [redacted] and saw them meet at the "[redacted]" restaurant prior to their interview with ICIB (Refer to Exhibit A page 4).

Deputy [redacted] said the purpose of meeting Deputy Nunez was to ask him why they were taken off the run at Transportation Bureau. Deputy [redacted] recalled the conversation, but could not recall where they met.

Regarding the voice message ICIB investigators located on Deputy [redacted] phone from Deputy Francisco Rodarte, Deputy [redacted] said he had not heard the message. Deputy [redacted] said Deputy Nunez was professional with the inmates and said Deputy Nunez did not give Inmate [redacted] preferential treatment.

Deputy [redacted] denied speaking about personal issues with Deputy Nunez inside a transportation van while in the presence of inmates. Deputy [redacted] could not recall Deputy Nunez and/or Inmate [redacted] ever addressing each other by their first names.

Deputy [redacted] said he never pointed his gun at Inmate [redacted] nor did he threaten her if she divulged any information.

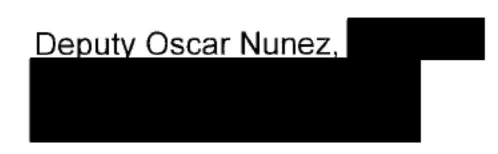


Leroy D. Baca, Sheriff

County of Los Angeles
Sheriff's Department Headquarters
4700 Ramona Boulevard
Monterey Park, California 91754-2169



March 21, 2013



Deputy Oscar Nunez, [redacted]

Dear Deputy Nunez:

You are hereby notified that it is the intention of the Sheriff's Department to discharge you from your position of Deputy Sheriff, Item No. 2708A with this Department, effective the close of business April 11, 2013.

An investigation under IAB File Number 2299474, conducted by Internal Affairs Bureau, coupled with your own statements, has established the following:

1. That in violation of Manual of Policy and Procedures Sections 3-01/030.05, General Behavior; and/or 3-01/050.85, Fraternization; and/or 3-01/050.10, Performance to Standards; on or about July 19, 2011 through and including October 12, 2011, while assigned to the Court Services Transportation Bureau, you failed to conform to the work standards established for your position, and fraternized with and/or had an inappropriate and/or romantic and/or sexual relationship with a female inmate, [redacted] as evidenced by, but not limited to:

    a) engaging Inmate [redacted] in personal conversations about your family, job, hobbies and personal interests, and/or allowing her to address you by your first name, and/or;

    b) hugging, and/or holding hands/fingers, and/or kissing, and/or engaging in sexual activity with Inmate [redacted] inside a Court Services Transportation Bureau van and/or;

c) performing favors for, and/or receiving personal letters from Inmate [redacted] and/or failing to report such activity to a supervisor.

Your actions of fraternizing with an inmate under the care and control of the Sheriff's Department are completely contrary to this Department's Core Values, Mission and Creed and by those actions you have brought discredit and embarrassment upon yourself and the Los Angeles County Sheriff's Department.

2. That in violation of Manual of Policy and Procedures Sections 3-01/030.05, General Behavior; and/or 3-01/030.10, Obedience to Laws, Regulations, and Orders; and/or 3-01/050.10, Performance to Standards, on or about August 2011, you failed to conform to the work standards for your position, when you observed your partner, Deputy [redacted] point a handgun at [redacted] and/or verbally threaten her, without taking action, objecting to or attempting to prevent the incident, and/or failing to report the incident. By your actions, you have brought discredit and embarrassment upon yourself and the Sheriff's Department.

3. That in violation of Manual of Policy and Procedures Section 3-01/040.75, Failure to Make Statements and/or Making False Statements during Departmental Internal Investigations, on or about November 1, 2012, you made false and/or incomplete statements to Departmental investigators, as evidenced by, but not limited to:

   a) stating that you did not have a close and/or intimate relationship with Inmate [redacted] when she was incarcerated in the Los Angeles County Jail system in 2011, and/or words to that effect, and/or;

   b) stating that you never held hands, and/or kissed, and/or engaged in sexual activity, and/or touched Inmate [redacted]n an intimate manner while she was incarcerated in the Los Angeles County jail system in 2011, and/or words to that effect.

Additional facts for this decision are set forth in the Disposition Worksheet, Investigative Summary and Investigative Packet which are incorporated herein by reference.

You may respond to the intended action orally or in writing. In the event that you choose to respond orally to these charges, you have already been scheduled to meet with Chief Richard Barrantes, on April 9, 2013, at 1330 hours, in his office, which is located at 1000 S. Fremont Ave. Bldg A, 9E, 5th floor, Alhambra, California 91803. If you are unable to appear at the scheduled time and wish to schedule some other time prior to April 9, 2013, for your oral response, please call Chief Barrantes' secretary at [redacted] for an appointment.

If you choose to respond in writing, please call Chief Barrantes' secretary to cancel your scheduled appointment, and send your response to the facts contained in this letter to Chief Barrantes' office by no later than April 11, 2013.

Unless you are currently on some other type of authorized leave, pursuant to Rule 16.01 of the Los Angeles County Civil Service Commission Rules, effective immediately, you are on paid administrative leave which will continue during the fifteen (15) business days you have to respond to the intended discharge or until the conclusion of your pre-disciplinary hearing. If you are presently on an authorized leave, that leave will continue during the fifteen (15) business days you have to respond to the intended discharge, or until the conclusion of your pre-disciplinary hearing.

Failure to respond to this Letter of Intent within fifteen (15) business days will be considered a waiver of your right to respond and will result in the imposition of the discipline indicated herein.

If you did not receive the investigative material on which your discipline is based at the time you were served with this correspondence, you may contact the Internal Affairs Bureau at (323) 890-5300, to obtain a copy of the case file.

The Sheriff's Department reserves the right to amend and/or add to this letter.

Sincerely,

LEROY D. BACA, SHERIFF

Alicia E. Ault, Captain
Internal Affairs Bureau

Note: Attached for your convenience are excerpts of the applicable areas of the Manual of Policy and Procedures.

AEA:CMJ:cj

c: Advocacy Unit
Employee Relations Unit
Chief Richard Barrantes, Court Services Division
Internal Affairs Bureau
Office of Independent Review (OIR)
(File #2299474)

LOS ANGELES COUNTY DISTRICT ATTORNEY
CHARGE EVALUATION WORKSHEET

X FELONY MISDEMEANOR	AGENCY NAME LASD - INTERNAL CRIMINAL AGENCY FILE NO. (DR OR URN) 911-00031-2003-441	DA CASE NO. 32859488 DA OFFICE CODE J.S.I.D. #12-0191R	DATE 06/27/2012 VICTIM ASSISTANCE REFERRAL ☐ YES – NOTIFY VWAP ☐ NO

SUSP NO.	SUSPECT	CHARGES: CODE	SECTION	OFFENSE DATE	REASON CODE
1	NAME (LAST, FIRST MIDDLE)) NUNEZ, OSCAR DOB: / SEX (M/F): M / BOOKING NO.: / VIP -- Yes X No ___ Gang Member Name of Gang / ___ Victim Gang Member Name of Gang: Victim Name: / Victim DOB:	PC	289.6	07/19/2011	B
2	NAME (LAST, FIRST MIDDLE)) [redacted] DOB: / SEX (M/F): M / BOOKING NO.: / VIP -- Yes X No ___ Gang Member Name of Gang / ___ Victim Gang Member Name of Gang: Victim Name: / Victim DOB:	PC	245	08/09/2011	B
3	NAME (LAST, FIRST MIDDLE)) DOB: / SEX (M/F): / BOOKING NO.: / VIP -- Yes -- No Gang Member Name of Gang / ___ Victim Gang Member Name of Gang: Victim Name: / Victim DOB:				

Comments

SEE ATTACHED.

COMPLAINT DEPUTY (print)	COMPLAINT DEPUTY (SIGNATURE)	STATE BAR NO.	REVIEWING DEPUTY (SIGNATURE)
PAUL M. NUNEZ/ap	[signature]	179793	[signature] Sergio Gonzalez

I have conveyed all relevant information to the above-named Deputy District Attorney to be used in consideration of a filing decision.

FILING OFFICER (PRINT): AMY HANSON FILING OFFICER (SIGNATURE): mailed 7/12/12 SERIAL #: [redacted]

DEPARTMENT OF JUSTICE REASON CODES (FORM 8715)			
A. Lack of Corpus B. Lack of Sufficient Evidence C. Inadmissible Search/Seizure	D. Victim Unavailable/Declines To Testify E. Witness Unavailable/Declines to Testify F. Combined with Other Counts/Cases G. Interest of Justice	H. Other (indicate the reason in Comments section) I. Referred to Non-California Jurisdiction J. Deferred for Revocation of Parole K. Further Investigation	L. Prosecutor Prefiling Deferral *DISTRICT ATTORNEY'S REASON CODES* M.- Probation Violation filed in lieu of N. Referred to City Attorney for Misdemeanor Consideration

LAST NAME: NUNEZ FIRST NAME: OSCAR DA CASE NUMBER: 32859488

DECLINATION MEMORANDUM

TO: JSID #12-0191R

THROUGH: SERGIO GONZALEZ, Head Deputy
Justice System Integrity Division

FROM: PAUL NUNEZ, Deputy District Attorney
Justice System Integrity Division

RE: Oscar Nunez and [redacted]
LASD File #911-00031-2003-441

DATE: June 27, 2012

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of allegations that Deputy Oscar Nunez engaged in sexual activity with inmate [redacted] in violation of Penal Code § 289.6 and that Deputy [redacted] assaulted [redacted] with a firearm in violation of Penal Code § 245(a)(2). For the reasons set forth below, we decline to initiate criminal proceedings against Nunez and [redacted]

The following analysis is based on reports and documents submitted to this office by the Los Angeles Sheriff's Department (LASD).

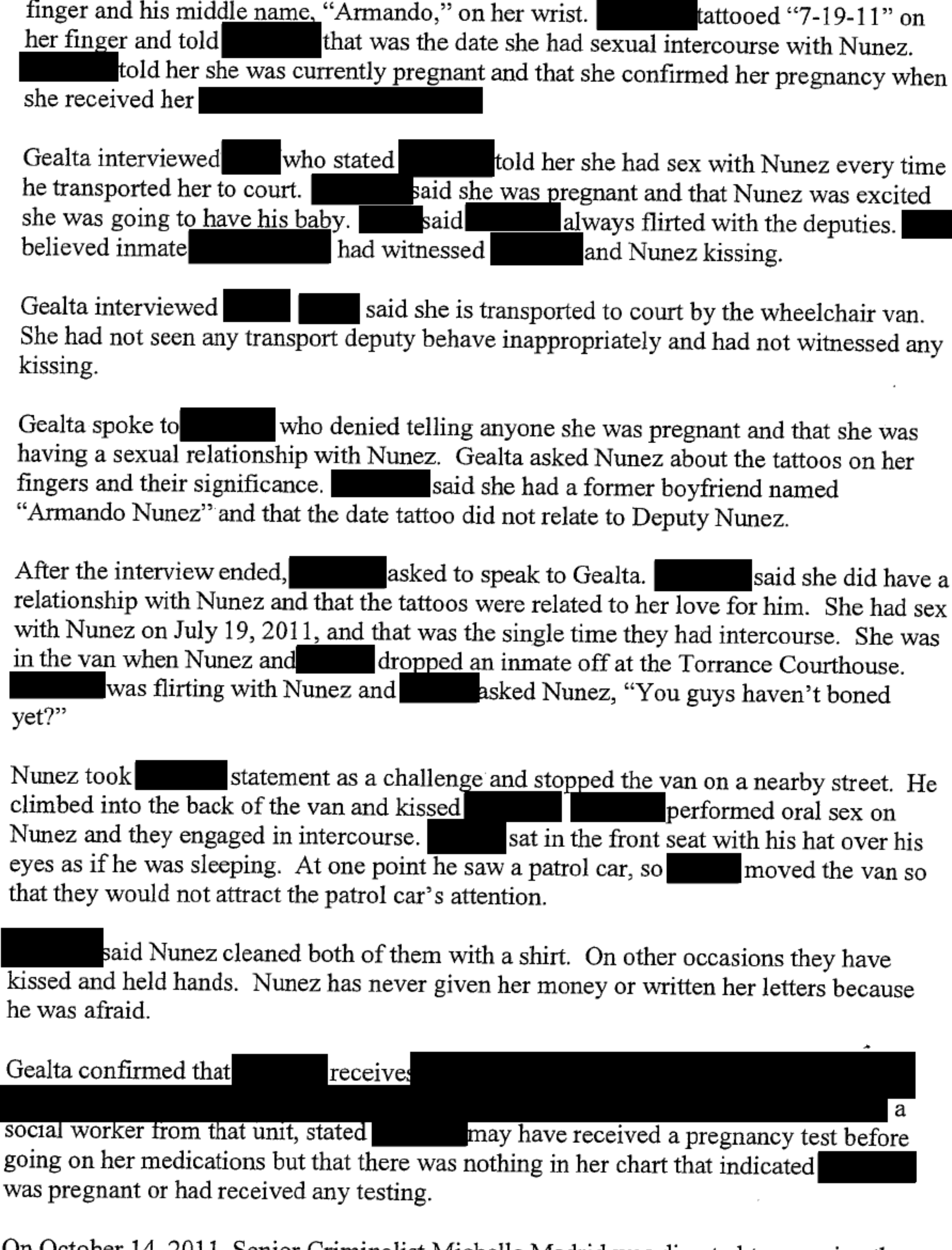
FACTUAL ANALYSIS

On October 11, 2011, LASD inmates [redacted] and [redacted] reported to Deputy Connie Grant at the Lynwood Central Regional Detention Facility (CRDF) that inmate [redacted] bragged to them on several occasions that she had a relationship with Deputy Nunez, Nunez had impregnated her and that she and Nunez engaged in sexual activity every time he transported her to court.[1]

Grant informed Deputy Carlos Alfaro of these allegations. Alfaro then informed Lieutenant Diana Gealta of the allegations.

On October 11, 2011, Gealta interviewed [redacted] [redacted] said she made the initial complaint to Grant because [redacted] was causing problems in the lock-up module. [redacted] shared a cell with [redacted] who told her she had a relationship with the deputy that transported her to court. [redacted] tattooed his last name, "Nunez," on her middle

[1] Inmate [redacted] was injured in a car accident she caused, and required special transportation to accommodate her wheelchair. In case number, NA087493, [redacted] was charged and convicted of vehicular manslaughter. The accident occurred on December 6, 2010 and her conviction occurred on December 15, 2011. She was sentenced to 11 years in state prison.



finger and his middle name, "Armando," on her wrist. [redacted] tattooed "7-19-11" on her finger and told [redacted] that was the date she had sexual intercourse with Nunez. [redacted] told her she was currently pregnant and that she confirmed her pregnancy when she received her [redacted]

Gealta interviewed [redacted] who stated [redacted] told her she had sex with Nunez every time he transported her to court. [redacted] said she was pregnant and that Nunez was excited she was going to have his baby. [redacted] said [redacted] always flirted with the deputies. [redacted] believed inmate [redacted] had witnessed [redacted] and Nunez kissing.

Gealta interviewed [redacted] [redacted] said she is transported to court by the wheelchair van. She had not seen any transport deputy behave inappropriately and had not witnessed any kissing.

Gealta spoke to [redacted] who denied telling anyone she was pregnant and that she was having a sexual relationship with Nunez. Gealta asked Nunez about the tattoos on her fingers and their significance. [redacted] said she had a former boyfriend named "Armando Nunez" and that the date tattoo did not relate to Deputy Nunez.

After the interview ended, [redacted] asked to speak to Gealta. [redacted] said she did have a relationship with Nunez and that the tattoos were related to her love for him. She had sex with Nunez on July 19, 2011, and that was the single time they had intercourse. She was in the van when Nunez and [redacted] dropped an inmate off at the Torrance Courthouse. [redacted] was flirting with Nunez and [redacted] asked Nunez, "You guys haven't boned yet?"

Nunez took [redacted] statement as a challenge and stopped the van on a nearby street. He climbed into the back of the van and kissed [redacted] [redacted] performed oral sex on Nunez and they engaged in intercourse. [redacted] sat in the front seat with his hat over his eyes as if he was sleeping. At one point he saw a patrol car, so [redacted] moved the van so that they would not attract the patrol car's attention.

[redacted] said Nunez cleaned both of them with a shirt. On other occasions they have kissed and held hands. Nunez has never given her money or written her letters because he was afraid.

Gealta confirmed that [redacted] receive[redacted] a social worker from that unit, stated [redacted] may have received a pregnancy test before going on her medications but that there was nothing in her chart that indicated [redacted] was pregnant or had received any testing.

On October 14, 2011, Senior Criminalist Michelle Madrid was directed to examine the van used to transport Sanchez on July 19, 2011. She identified and collected five semen samples from the rear portion of the van. These samples were tested and compared to

samples later collected from Nunez, [redacted] and [redacted] The DNA in the semen samples did not match the collected reference samples.

On October 17, 2011, the Los Angeles Times newspaper reported that two deputies had been reassigned from the transportation bureau due to allegations of sexual contact with inmates. On October 18, 2011, undercover investigators observed [redacted] and Nunez meet at a diner prior to beginning their shifts at Century Station. [redacted] and Nunez appeared to have an animated conversation.

The same day, Sergeant Amylynn Hanson and Lieutenant [redacted] interviewed [redacted] [redacted] gave a voluntary statement. [redacted] stated he had been partners in the wheelchair transportation van with Nunez for the past nine months. He never observed Nunez have intercourse with [redacted] or any other inmate and that he would have witnessed such behavior if it had occurred during their shift. He was asked if he had spoken to Nunez in the passed 24 hours and [redacted] said he spoke to him several times on the phone. He said they arranged to meet before their shift started earlier today to discuss why they had been removed from their regular assignment. [redacted] said this conversation occurred in the employee parking lot and not at the diner investigators had observed it take place. [redacted] provided his cell phone to the investigators when asked.[2] [redacted] also allowed his locker to be searched but nothing was retained as evidence.

On the same day, Hanson and [redacted] spoke with Nunez. Nunez declined to make a statement without an attorney present. Nunez provided his cell phone and allowed his locker to be searched. Hanson found four letters from [redacted] addressed to Nunez. In the letters, [redacted] professed her love for Nunez but did not mention any sexual activity between the two. Instead, she described her feelings to Nunez regarding her criminal case and her separation from her [redacted] and family.

On October 18, 2011, Peacock and Hanson interviewed [redacted] an inmate who used the wheelchair van. [redacted] had been in the van twice with [redacted] [redacted] said she never witnessed inappropriate behavior between Nunez and [redacted]

Peacock and Hanson interviewed [redacted] [redacted] was in county jail awaiting her trial for vehicular manslaughter. She met Nunez in December of 2010 and developed a crush on him. She asked him a lot of questions about his family life and learned he had tattoos. Hanson checked the LASD transportation system and confirmed [redacted] was transported by Nunez several times.

On July 19, 2011, [redacted] was flirting with Nunez and [redacted] questioned Nunez why he had not had intercourse with [redacted] Nunez proceeded to get into the back of the van and the two engaged in the sexual activity previously stated. [redacted] could not provide any specific personal details about Nunez that corroborated her account of the sexual

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[2] Investigators heard a message from Nunez on the cell phone where he says, "It's all over the fucking news."

[3] [redacted] told Hanson that prior to her arrest, she worked as dancer in bar where men paid to have drinks with her.

activity. She stated she had her tubes tied four years ago and knew she could not get pregnant.

[redacted] stated on August 9, 2011, [redacted] pointed his gun at [redacted] and told her she better not snitch and he did not want to lose his job over her. She was the only inmate in the van at the time and Nunez did not get involved.[4] [redacted] expressed animosity towards [redacted] for not being "cool" about allowing Nunez and her to engage in frequent sexual contact.

[redacted] also told Hanson that she gave a letter to [redacted] to deliver to Nunez. Hanson and [redacted] spoke to [redacted] about her involvement in the relationship between [redacted] and Nunez. [redacted] said she never witnessed inappropriate behavior between the two. She did not give the letter to Nunez because she was not sure she should get involved. [redacted] gave the letter to the investigators. In the letter, [redacted] is angry Nunez does not want to get involved with her. She chastises him for not writing or attempting to see her. She alludes to some physical contact between her and Nunez.

Investigators spoke with three additional inmates who had been in Nunez's transport van with [redacted] [redacted] said she remembered the August 9, 2011, ride in the transportation van and said she did not see any contact between Nunez and [redacted]

[redacted] said [redacted] told her that [redacted] had had sexual intercourse with Nunez. [redacted] believed [redacted] had an infatuation with Nunez and was lying. [redacted] once gave a card to Nunez for [redacted] and Nunez told [redacted] that his "nice" behavior towards the inmates does not mean he is "in love" with them. [redacted] also said [redacted] repeatedly asked Nunez personal questions but that he would not answer them. She had never seen any inappropriate contact between [redacted] and Nunez.

[redacted] stated on one trip she observed [redacted] grab Nunez's face and kiss him as he was unbuckling her wheelchair. [redacted] was transported with [redacted] in the van on April 15, 2011, and May 5, 2011. [redacted] identified Nunez in a photographic lineup.

CONCLUSION

The evidence presented at this time indicates that [redacted] had feelings for Nunez and that she wrote Nunez several letters professing her love for him. The physical evidence consists of tattoos that purportedly reflect the day [redacted] and Nunez had sexual intercourse but there are no independent witnesses that corroborate the allegation. Forensic evidence taken from the van does not support the allegation that [redacted] and Nunez had sex in the van. [redacted] gave conflicting statements to investigators, and lied about her pregnancy. Therefore, there is insufficient evidence to prove beyond a reasonable doubt that Nunez engaged in sexual activity with [redacted]

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[4] Hanson conducted a transportation records check that revealed three other female inmates were in the van on August 9, 2011.

The only evidence that [redacted] assaulted [redacted] with a firearm is the statement made by [redacted] This is insufficient to prove the allegation beyond a reasonable doubt.

Based on the foregoing analysis, we decline to initiate criminal proceedings against Deputy Oscar Nunez or Deputy [redacted] We are closing our file and will take no further action in this matter.



CIVIL SERVICE COMMISSION

COUNTY OF LOS ANGELES

February 23, 2015

FINAL COMMISSION ACTION

Subject of Hearing: *Petition of **OSCAR NUNEZ** for a hearing on his **discharge**, effective April 16, 2013, from the position of Deputy Sheriff, Sheriff's Department,* **Case No. 13-192**.

The Civil Service Commission, at its meeting held on February 18, 2015 approved findings in the above-entitled case. The petitioner's objections were overruled. Commissioner Nightingale dissented.

Since a copy of these findings has already been provided to all the parties, we have enclosed a copy of the signed formal order of the Commission for your records.

Anyone desiring to seek review of this decision by the Superior Court may do so under Section 1085 or 1094.6 of the Code of Civil Procedure as appropriate. An action under Section 1094.6 can only be commenced within 90 days of the decision.

Lawrence D. Crocker
Executive Director

Enclosure

c: Oscar Nunez
Adam Marangell
William Balderrama
Paul Crost

BEFORE THE CIVIL SERVICE COMMISSION OF THE

COUNTY OF LOS ANGELES

*In the matter of the **discharge**, effective April 16, 2013, from the position of Deputy Sheriff, Sheriff's Department, of* **OSCAR NUNEZ** **(Case No. 13-192)**	ORDER OF THE CIVIL SERVICE COMMISSION

On February 18, 2015, the Civil Service Commission of the County of Los Angeles overruled the petitioner's objections and adopted as its final decision the findings and recommendation of the Hearing Officer, Paul Crost, to sustain the Department. Commissioner Nightingale dissented.

Dated this 25th day of February, 2015.

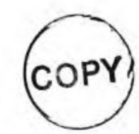
Z. GREG KAHWAJIAN, President

Absent — DENNIS F. HERNANDEZ, Member

Dissented — NAOMI NIGHTINGALE, Member

STEVEN AFRIAT, Member

JOHN DONNER, Member



BEFORE THE CIVIL SERVICE COMMISSION OF THE

COUNTY OF LOS ANGELES

HEARING OFFICER PAUL CROST

IN THE MATTER OF THE APPEAL OF OSCAR ARMANDO NUNEZ, Appellant, and SHERIFF'S DEPARTMENT, Respondent.	Case No. ~~12-284~~ 13-192 HEARING OFFICER'S FINDINGS OF FACT, CONCLUSIONS OF LAW AND RECOMMENDED ORDER

Appearances

Hearing officer: Paul Crost

For the Appellant: Adam L. Marangell of the Law Office Of Adam L. Marangell

For the Respondent Department: William Balderrama of the Law Offices Of William Balderrama

INTRODUCTION

The above-entitled matter was heard by Paul Crost, the duly appointed hearing officer of the Los Angeles County Civil Service Commission, on March 6, May 12, May 15, and July 21, 2014. A transcript of the hearing and closing arguments on behalf of the Department and Appellant were received by the Commission on September 3, 2014. I have reviewed the testimony and evidence presented during the hearing, as well as the post-hearing briefs

submitted by the parties. I have not addressed all of the arguments and issues raised by the parties, but this should not be interpreted to mean that I have not reviewed and carefully considered the evidentiary record and all arguments. Rather, I have addressed those elements that have a significant impact on my decision-making process.

ISSUES

The Commission defined the issues in this matter as follows:

1. Are the allegations contained in the Department's Letter of Imposition dated April 17, 2013 true?
2. If any or all are true, is the discipline appropriate?

THE NOTICE OF DISCHARGE

The Department's Dismissal Letter sets forth the facts and policy violations supporting the disciplinary action against Appellant:

1. That in violation of Manual of Policy and Procedures Sections 3-01/030.05, General Behavior; and/or 3-01/050.85, Fraternization; and/or 3-01/050.10, Performance to Standards; on or about July 19, 2011 through and including October 12, 2011, while assigned to the Court Services Transportation Bureau, you failed to conform to the work standards established for your position, and fraternized with and/or had an inappropriate and/or romantic and/or sexual relationship with a female inmate, [redacted] as evidenced by, but not limited to:

a) engaging Inmate [redacted] in personal conversations about your family, job, hobbies and personal interests, and/or allowing her to address you by your first name, and/or;

b) hugging, and/or holding hands/fingers, and/or kissing, and/or engaging in sexual activity with Inmate [redacted] inside a Court Services Transportation Bureau van and/or;

c) performing favors for, and/or receiving personal letters from Inmate [redacted] and/or failing to report such activity to a supervisor.

Your actions of fraternizing with an inmate under the care and control of the Sheriffs Department are completely contrary to this Department's Core Values, Mission and Creed and by those actions you have brought discredit and embarrassment upon yourself and the Los Angeles County Sheriffs Department.

That in violation of Manual of Policy and Procedures Sections 3-01/030.05, General Behavior; and/or 3-01/030.10, Obedience to Laws, Regulations, and Orders; and/or 3-01/050.10, Performance to Standards, on or about August 2011, you failed to conform to the work standards for your position, when you observed your partner, Deputy [redacted] point a handgun at [redacted] and/or verbally threaten her, without taking action, objecting to or attempting to prevent the incident, and/or failing to report the incident. By your actions, you have brought discredit and embarrassment upon yourself and the Sheriffs Department.

That in violation of Manual of Policy and Procedures Section 3-01/040.75, Failure to Make Statements and/or Making False Statements during Departmental Internal Investigations, on or about November 1, 2012, you made false and/or incomplete statements to Departmental investigators, as evidenced by, but not limited to:

a) stating that you did not have a close and/or intimate relationship with Inmate [redacted] when she was incarcerated in the Los Angeles County Jail system in 2011, and/or words to that effect, and/or;

b) stating that you never held hands, and/or kissed, and/or engaged in sexual

activity, and/or touched Inmate [redacted] in an intimate manner while she was incarcerated in the Los Angeles County jail system in 2011, and/or words to that effect.

EXHIBITS

Attached as an Appendix is a list of the exhibits.

SUMMARY OF SWORN TESTIMONY
EVIDENCE PRESENTED AT HEARING BY DEPARTMENT

LT. MARK REYES

Internal Affairs (IA) Lt. Reyes was the lead investigator of allegations of Appellant's misconduct. He interviewed Appellant and numerous witnesses including inmate [redacted] In that interview, Lt. Reyes noted that she spoke clearly and did not appear to be under the influence of any drugs. [redacted] was particularly mad about what Appellant had done to her. After completing his investigation, Lt. Reyes compiled his report, which was admitted at the hearing as Department's Exhibit 7. Lt. Reyes was not involved in the decision to impose discipline on Appellant.

SGT. AMY HANSON

Sgt. Amy Hanson of the Internal Criminal Investigation Bureau investigates allegations of criminal misconduct of Department employees, and was the lead investigator of the criminal allegations against Appellant. In the course of her investigation, she searched Appellant's locker and found letters and notes she later determined were written by [redacted] She stated that Appellant appeared concerned when she found the envelope containing the letters and notes in his locker.

Sgt. Hanson also interviewed [redacted] who did not appear to be under the influence of any drugs. Prior to the hearing, Sgt. Hanson reviewed a written statement prepared by inmate [redacted] [her so-called "confession"], and she denied that she pressured [redacted] into saying what she said in her previous interview. After completing her investigation, Sgt. Hanson compiled her report, which was admitted at the hearing as Department's Exhibit 16.

LT. DIANA GEALTA

Lt. Diana Gealta was stationed at the Century Regional Detention Facility [CRDF]. When she interviewed [redacted] she initially denied having a relationship with Appellant, but within ten minutes she changed her story and stated that they had a relationship. Lt. Gealta prepared a memorandum regarding her involvement in the case, which was admitted at the hearing as Department's Exhibit 16, pgs. 35-39.

CHIEF RICHARD BARRANTES

Chief Richard Barrantes is the Division Chief for the Court Services Division; he was the Department's decision maker. In his role as a decision maker, he reviewed all the facts of the case and all of the attachments to the Letter of Intent to Discharge. Chief Barrantes testified that discipline was imposed on Appellant due to his violating numerous policies, including the policy against fraternization. Fraternization exists when an employee has a relationship with a current or former inmate. Appellant violated this policy by receiving and keeping personal letters and cards from inmate [redacted] holding hands and kissing her and in sharing personal information about himself with inmate [redacted] Appellant also failed to report this activity to a supervisor.

Chief Barrantes found it significant that Appellant retained letters from the inmate and kept them in his locker. If the letters were contraband or property of the inmate, Appellant should have taken steps to put those items in the inmate's property. Instead, the letters were kept in Appellant's locker which was improper and demonstrated a personal relationship. The fact that an independent witness confirmed that Appellant and [redacted] held fingers and kissed was also significant. Deputies are trained that they are never to share personal information about themselves to people in custody, so it was hard for him to accept that Appellant would discuss such things in the presence of inmates, unless he intended the inmates to know his personal information.

If the allegations regarding sex between [redacted] and Appellant were not part of this case, his decision to discharge Appellant would not change. The other conduct of Appellant constituted fraternization and unprofessional conduct which would warrant discharge.

Appellant's assertion that he did not report [redacted] conduct because he did not

want to get her in trouble was inappropriate. As a professional peace officer, Appellant had the responsibility to report all violations and his failure to do so allowed the relationship to expand. It tends to show that Appellant wanted the relationship to continue.

Prior to the hearing, he reviewed [redacted] "confession." Because [redacted] had been interviewed at least three times and had told essentially the same story each time, her "confession" did not change his decision to discharge Appellant. It is not uncommon for witnesses to recant because they feel sorry for the accused. Discharge was the appropriate discipline due to the numerous policy violations; the disciplinary guidelines call for discharge for the first offense of fraternization.

[redacted]

[redacted] testified that she falsely accused Appellant of having sexual intercourse with her in the transport van because she was angry. She confirmed that she had made the statements reported by the Sheriff's investigators, but the statements were untrue. Initially she stated that the allegations made against Deputy [redacted] were true.

When she was initially interviewed she denied any inappropriate behavior had taken place with Nuñez. She left the interviewer to go back to her cell, and then requested that she go back to speak to the interviewer. She stated that she called her [redacted] after returning to the cell because she was angry about her case. After the call to her [redacted] she asked to speak to the Sheriff's interviewer she had spoken to before. She said she wanted to talk to her "to see what she had to ask me. Because when I left her office the first time, I cut her off and just wanted to leave. So when I went back to talk to her, I wanted to see what she wanted to talk to me about, to see what her questions were, because I wanted to answer her questions."

She's stated that she made the allegations about sex with Nuñez because she was angry and wanted to get at someone. When asked whether she was getting at Nuñez, she answered, "yeah, getting my anger at someone. At whoever crossed my path and at the time it was him." She stated that she was angry because she had just

[1] Although I did not rely on [redacted] testimony in making the findings and conclusions, I have included a detailed summary of her testimony with emphasis on the inconsistencies of her hearing testimony with the statements she had made in multiple interviews.

been charged with second-degree murder. When asked if Nuñez treated her okay prior to the investigation, she answered, "like any other inmate, yes." She said he was not friendly to her and was professional at all times, and that he did nothing that she would complain about. She still believes [redacted] is an "asshole" and that the allegations she had made against him were true.

She said that she felt that the investigators pressured and manipulated her so she "decided to go tell them what they wanted to hear, so they could leave me alone." She said that a female investigator repeatedly asked her if she had sex with Nuñez, so she finally said "yes I did." "Basically I just went along with everything they wanted me to go along with. And that was it."

When asked why she made up false accusations about Nuñez instead of making up allegations against [redacted] who she thinks is an asshole, she stated "other than what I said about the gun, I really didn't care more or less about anything. They kept questioning me about Deputy Nuñez. So they put their focus on him, so I put my focus on him."

When questioned about [redacted] she said that she didn't care about how he treated her. In response to a question about whether her statement to investigators that [redacted] had pulled a gun on her and threatened her was true, she said, "I remember being questioned. And after a while, I admitted to it." She was then asked where did that happen and she said it was in the van. She later stated that she remembered "him playing around, and he just pulled [the gun] out." She then said that he did point the gun at her and laughed, but did not say anything. She denied that [redacted] threatened her. When asked if she had told the investigators that [redacted] had threatened her with a gun and that he told her not to be a "snitch," she said that statement was not true. She then said that she made up that accusation, "because I didn't like him."

She said that the investigators did not encourage her to make the accusation against [redacted] but did so about Nuñez. She claimed that Nuñez was not in the van when [redacted] pulled out the gun and laughed. She described [redacted] as being "just an asshole." On cross-examination she said that [redacted] showed the gun to her, pulled it out of the side of the seat, but he didn't point it at her. When asked what he did with the gun, she said "nothing. He grabbed it. He grabbed a gun from the side of the seat." He

wasn't talking to her at all when he showed the gun. She said that they had just parked, so Nuñez had gotten out to open the back door.

She denied that she had ever told any of her fellow inmates that she had a personal relationship Nuñez.

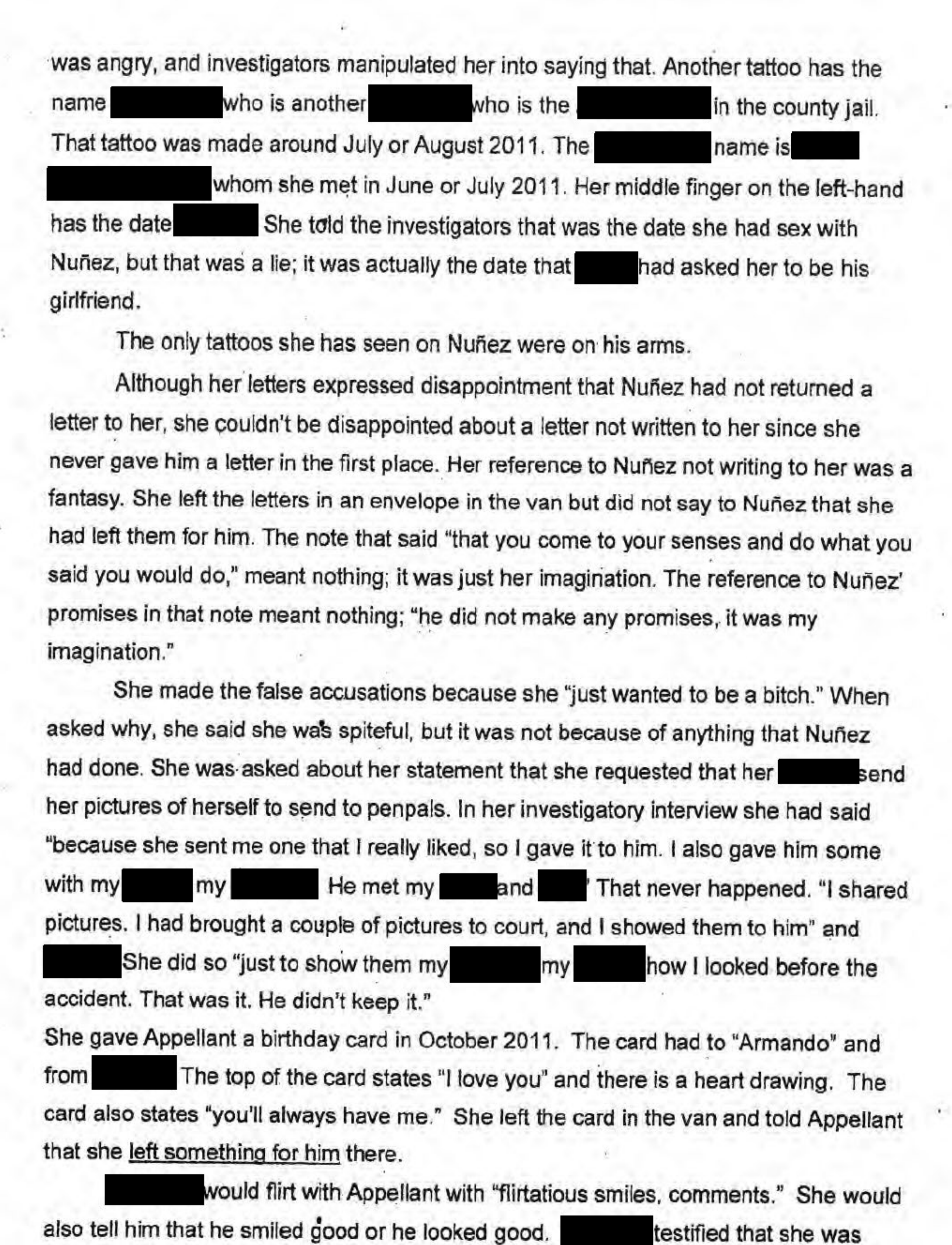
She denied that she was in love with Nuñez, but did call her feelings an "infatuation." By that she meant that she liked him, but not enough to tell him that she liked him.

She denied that she gave Nunez the letters that she wrote to him. She said that she had them in her room. She never gave any letters to anyone else to give to Nuñez. "I decided to personally give them to him. At that exact moment when I was going to, I backed out and when it was time for me to get off, I accidentally left them in the van." It was her intention to give them to Nuñez, but she dropped them somehow and they were left behind in the van. She acknowledged that the letters she wrote were love letters.

When asked how she felt when she heard that Nuñez and [redacted] were fired she said, "at the time", "honestly, I could care less." She later said she feels bad about it, because "it's something that should never have happened." She was asked if investigator [redacted] was watching her in the room with her while she wrote her confession. She answered, "no. He told me that he was going to step out and give me some privacy." She later testified that [redacted] "was in the room all along, just not right next to me. He had stepped out of the table. It was in the visiting area into the room with tables. And he just stepped away from where I was sitting and he walked around and gave me some space."

Although she said that she believed Nuñez was fired because he had sex with her in the van, she included in her confession letter that she had learned personal information about him by overhearing conversations with [redacted] and that he had been charged with getting cards or letters from her.

She described tattoos that were on her hands. The tattoo [redacted] referred to her nickname. Another tattoo on her ring finger is [redacted] which referred to a former boyfriend. Her boyfriend's name was [redacted] She saw him between February 2010 and December 2010 and continued to have some contact with him after she was in jail. She had told the investigator that it had referred to Deputy Nuñez because she



was angry, and investigators manipulated her into saying that. Another tattoo has the name [redacted] who is another [redacted] who is the [redacted] in the county jail. That tattoo was made around July or August 2011. The [redacted] name is [redacted] whom she met in June or July 2011. Her middle finger on the left-hand has the date [redacted] She told the investigators that was the date she had sex with Nuñez, but that was a lie; it was actually the date that [redacted] had asked her to be his girlfriend.

The only tattoos she has seen on Nuñez were on his arms.

Although her letters expressed disappointment that Nuñez had not returned a letter to her, she couldn't be disappointed about a letter not written to her since she never gave him a letter in the first place. Her reference to Nuñez not writing to her was a fantasy. She left the letters in an envelope in the van but did not say to Nuñez that she had left them for him. The note that said "that you come to your senses and do what you said you would do," meant nothing; it was just her imagination. The reference to Nuñez' promises in that note meant nothing; "he did not make any promises, it was my imagination."

She made the false accusations because she "just wanted to be a bitch." When asked why, she said she was spiteful, but it was not because of anything that Nuñez had done. She was asked about her statement that she requested that her [redacted] send her pictures of herself to send to penpals. In her investigatory interview she had said "because she sent me one that I really liked, so I gave it to him. I also gave him some with my [redacted] my [redacted] He met my [redacted] and [redacted]' That never happened. "I shared pictures. I had brought a couple of pictures to court, and I showed them to him" and [redacted] She did so "just to show them my [redacted] my [redacted] how I looked before the accident. That was it. He didn't keep it."

She gave Appellant a birthday card in October 2011. The card had to "Armando" and from [redacted] The top of the card states "I love you" and there is a heart drawing. The card also states "you'll always have me." She left the card in the van and told Appellant that she <u>left something for him</u> there.

[redacted] would flirt with Appellant with "flirtatious smiles, comments." She would also tell him that he smiled good or he looked good. [redacted] testified that she was

able to get around the jail facility without a wheelchair and her ankle would swell up if she walked too far. When she was taken to court by Appellant, she was able to stand up and walk short distances.

[redacted]

[redacted] was an inmate at the County jail facility in Lynwood. She met Appellant and [redacted] while at the facility. She traveled in the van with Appellant and [redacted] On a couple of occasions, she witnessed inmate [redacted] touch fingers with Appellant in the van. She explained that the gate in the van had holes in it which a person could put fingers through the holes; she saw [redacted] and Appellant with their fingers linked together. She witnessed inmate [redacted] get off the wheelchair to go by the gate in the van.

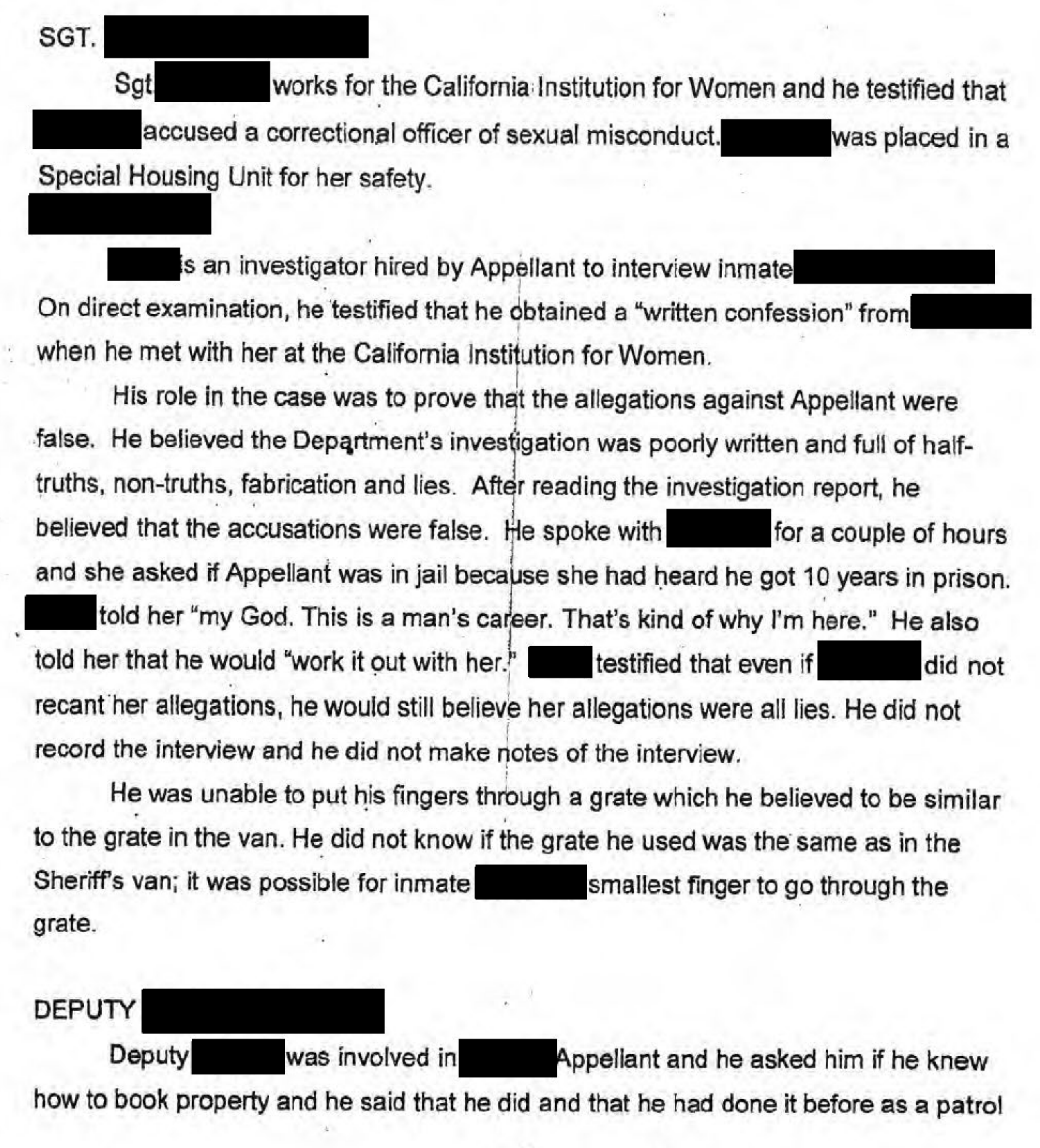
In late 2011 [redacted] saw [redacted] kissing Appellant when he was taking her out of the van. [redacted] told [redacted] before the kissing incident that she was going to kiss Appellant that day. [redacted] also witnessed Appellant and [redacted] speaking together at length in Spanish in the van. She recalled [redacted] stating that she had sex with Appellant and she believed she was pregnant because she was late for her period. She saw "hickies" on [redacted] neck; [redacted] said they came from Appellant. [redacted] testified that [redacted] had a tattoo with the name [redacted] and she believed it related to Appellant. [redacted] told her "I'm going to put a tattoo with his name on me." On one occasion, when [redacted] was going to Court without [redacted] gave her an envelope that had a card in it and she asked her to give it to Appellant. [redacted] gave the card to Appellant in the van and she saw Appellant put the card in the front of the van. When she gave the card to Appellant, she told him [redacted] told me to give this to you," and he responded "Oh." Appellant asked her "what's up with your home girl putting my name on her?"

DEPUTY SANDY CAPPS

Deputy Capps transported [redacted] to and from the hearing. After [redacted] left the hearing, she was crying and stated, "I want to go back into the room and tell the truth." She told Deputy Capps that she felt bad because Appellant has [redacted] and

that [redacted] told her that he would not divulge their conversation. She also stated that [redacted] promised her that if she wrote that it did not happen, she would receive two years of Appellant's back pay if he got his job back.

EVIDENCE PRESENTED AT HEARING BY APPELLANT



SGT. [redacted]

Sgt [redacted] works for the California Institution for Women and he testified that [redacted] accused a correctional officer of sexual misconduct. [redacted] was placed in a Special Housing Unit for her safety.

[redacted]

[redacted] is an investigator hired by Appellant to interview inmate [redacted] On direct examination, he testified that he obtained a "written confession" from [redacted] when he met with her at the California Institution for Women.

His role in the case was to prove that the allegations against Appellant were false. He believed the Department's investigation was poorly written and full of half-truths, non-truths, fabrication and lies. After reading the investigation report, he believed that the accusations were false. He spoke with [redacted] for a couple of hours and she asked if Appellant was in jail because she had heard he got 10 years in prison. [redacted] told her "my God. This is a man's career. That's kind of why I'm here." He also told her that he would "work it out with her." [redacted] testified that even if [redacted] did not recant her allegations, he would still believe her allegations were all lies. He did not record the interview and he did not make notes of the interview.

He was unable to put his fingers through a grate which he believed to be similar to the grate in the van. He did not know if the grate he used was the same as in the Sheriff's van; it was possible for inmate [redacted] smallest finger to go through the grate.

DEPUTY [redacted]

Deputy [redacted] was involved in [redacted] Appellant and he asked him if he knew how to book property and he said that he did and that he had done it before as a patrol

deputy. In his experience, if a deputy found something in a transport vehicle, it would normally not be acceptable to place the items in a locker and deal with it at a later time. He had never heard of such a practice. Deputy [redacted] also testified that found property could be stored temporarily in a gun locker or mailbox. When asked "how about your personal locker?" he responded "I don't know if I would put it in a personal locker."

If a transport deputy found something in the van that he knew belong to an inmate, the Deputy should take the property to the inmate. Found property of inmates should be returned to the inmate's facility. If letters are found with writing on them and they had the name of the deputy on it, he would let a supervisor know. If the letters were "love letters" to the deputy, he would "definitely" show it to a supervisor.

APPELLANT OSCAR ARMANDO NUNEZ

Appellant denied all the allegations against him. He also testified that it was common for him and his partner to discuss personal things in front of inmates. He was too nice to a lot of inmates and he should have reported [redacted] a long time ago, as soon as he would have felt any affection that she was showing toward him. At the time, he believed he handled the situation involving [redacted] "perfectly."

When he first saw the tattoo on [redacted] he assumed that tattoo was meant for him and that maybe she had an infatuation for him. When asked by the Sheriff's investigator why he made that assumption, Appellant stated "I think this is because of the --all the talks, the affection or I don't know." Appellant testified that he used the word "<u>affection</u>" in relation to [redacted] because she would tell him about her kids and what was going on in the jail and how she felt. Appellant would transport [redacted] about twice a week and there were times when she would flirt with him.

When his partner Deputy [redacted] saw the tattoo he told [redacted] "what the fuck are you doing?" and that she was going to get Appellant in trouble. After [redacted] spoke to [redacted] about the tattoo, she claimed the tattoo was not meant for Appellant. Appellant stated that his partner may have "scared the crap out of her."

Appellant acknowledged that he never told the Sheriff's investigator that he sought out a supervisor to find out what to do with the letters found in the van. He testified that it would not surprise him that the only letter he claims to have read prior to

putting the letters in his locker was the one letter that did not contain his name.

He was given a card by [redacted] but he did not know who the card was from. [redacted] said "I found this" or that she had a card. He did not remember [redacted] saying that the card came from her roommate or "homie." When he was given the card, he had a suspicion that it was from [redacted] He later changed his testimony and said that he had no idea who the card was from. He recalled telling the Sheriff's investigator that he knew the card was from [redacted] which happened because he was confused by the questioning of the investigator. He tore up the card without looking at it because he thought it was trash. However, he told the Sheriff's investigator that [redacted] gave him the envelope and said "this is for you from our friend," and Appellant opened it and it was some kind of greeting card. Appellant told the investigator that he knew the friend she was referring to was [redacted] Appellant then testified that he only opened the flap of the envelope and noticed it was a greeting card, but he did not read the card.

Appellant was wrong for not booking the letters per Department policy. He didn't do that because he had no authorization for overtime to properly book the items, but he did not attempt to seek authorization.

When [redacted] called him by his first name, he and his partner corrected her; he did this twice. When asked if he would allow her to call him Oscar he said, "no." He later said that he did not mind being called by his first name by inmates; "I'd rather have an inmate call me by my first name than call me an asshole, or call me a son of a bitch, or call me a bastard."

He deliberately did not report [redacted] conduct because he did not want to get her in trouble. He thought that she could lose privileges or be written up. During the investigatory interview he made a comment about [redacted] professing things to him because at the time of his interview he had already read the entire case including all of her interviews and all of the letters she had written which revealed her infatuation with him.

In response to questions by the Hearing Officer, Appellant acknowledged that he was asked by the Sheriff's investigator "Did any other inmate give you anything on behalf of inmate [redacted] and Appellant responded that "there was one inmate that did, [redacted]" If he would have known the card was for him he would have

reported it. He was asked "would it be important then to know if it was for you?" Appellant responded that at the time there was no indication on it that it was for him.

When Appellant knew he was not going to see [redacted] because of the canceled court date, he did not make any attempt to remove the letters from his locker and take them to a supervisor. Appellant was on vacation the next day, so he thought he would return the letters when he returned from vacation.

Appellant was asked why he did not want to get inmate [redacted] in trouble even if she was breaking policy. He responded, "because of her [redacted]" He said that she was unstable and angry, and sometimes she was very quiet and that scared him. If he had reported her, she would not be able to talk to [redacted] and "what's not to stop her from stabbing me or biting me or causing me injury, because now according to inmates, I'm a snitch. Snitches in incarceration get killed. So that was my main reasoning behind that . . . I have to strap her in. I'm literally inches away from her when I'm strapping her seat belt. I thought she could probably do something because of her mental stability." He refrained from reporting [redacted] because he feared she may do him harm.

DISCUSSION AND ANALYSIS BY THE HEARING OFFICER

Are the allegations in the Notice of Discharge true?

The parties' closing arguments are like ships passing in the night: Appellant focuses on the lack of credibility of [redacted] the individual whose comments to fellow inmates precipitated the investigation and led to Appellant's discharge. The Department argued that it met its burden of proof on the fraternization charge without having to figure out what versions of [redacted] multiple versions of her relationship with Appellant. Appellant's testimony, the testimony of [redacted] and the indisputable fact that love letters written by [redacted] were found in Appellant's locker is sufficient to prove that Appellant engaged in an inappropriate relationship with an inmate. The Department effectively puts aside the charge that Appellant had sexual relations with

[redacted] arguing that Appellant violated the fraternization policy and that the gravity of his violation warranted discharge. Based upon my analysis of the exhibits and the testimony, I have concluded that Appellant violated the Department's fraternization policy and made false statements in the IA investigation, and that the discharge was an appropriate discipline.

Appellant's testimony and his statements to the internal affairs investigators are replete with inconsistencies, changes of his story, and claims that are neither plausible nor credible.

The improper relationship between Appellant and [redacted] is evidenced by his middle name and surname being tattooed on [redacted] Appellant testified that he assumed the tattoos were meant for him, but after [redacted] told [redacted] "what the fuck are you doing?" and "scared the crap out of her," [redacted] claimed the tattoo was not meant for Appellant. When Appellant was asked by the IA investigator why he assumed the tattoo was meant for him, he responded "I think this is because of all the talks, the affection or I don't know." Appellant then testified that he used the word "affection" in relation to [redacted] because she would tell him about her kids and what was going on in the jail and how she felt. He also revealed that [redacted] would flirt with him. He did not explain what he meant by the phrase "all the talks," but it implies that they had personal conversations, and that it wasn't just her talking to him without his response. Moreover, [redacted] response to the tattoos implies that [redacted] had the same

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2 [redacted] claimed that the "Nunez" tattoo referred to a male friend that preceded her incarceration. She didn't explain why she waited until eight months after her arrest to decide to put his name on her [redacted] She said the "Armando" tattoo referred to the [redacted] she met in jail. While it is an amazing coincidence that her two male friends had the same names as Appellant, her statements to the investigators that the tattoos referred to Appellant is far more credible than the testimony she gave at the hearing. Nevertheless, I make no findings regarding who was the subject of the tattoos.

belief; they related to Nuñez and that Nuñez had a relationship with her that may have motivated her to make the tattoos. The reactions to the tattoos demonstrate a personal relationship between Appellant and [redacted] regardless of whose names [redacted] was installing on her [redacted]

Appellant's claim that he didn't look at [redacted] letters is not credible. Appellant's argument that he had no reason to believe the letters were for him is undermined by the fact that he acknowledged that he didn't want to get her in trouble, that he knew she flirted with him, she had an affection for him, that she shared information about her kids and other personnel matters, and that she had sent him the greeting card which he supposedly tore up. Appellant said that he should have reported [redacted] as soon as he felt there was any affection on her part toward him. This statement implies that Appellant knew that [redacted] had developed a "crush" or infatuation. If that is the case, Appellant would have immediately recognized that the letters left in the van by [redacted] were for him, and that it was important to report the letters to his supervisors. Instead he put them in his locker.

With that background, it is not credible that he would be unaware that the letters were for him from [redacted] even if he did not read them. Assuming, arguendo, that his version of what [redacted] said were true (she told him that she left something in the van but didn't say they were for him), he would have understood that the letters were from her for him.

Appellant claimed that [redacted] learned about his personal life because she overheard his conversations with [redacted] However, he testified that her "affection" for him was because she would tell him about her kids and what was going on in the jail and how she felt. It is more likely than not that Appellant also shared information about

his life, because it would be more likely for her to be affectionate as a result of Appellant's telling her about him and speaking to her as if she were a friend, not an inmate. Moreover, since the inmates can hear the conversations between [redacted] and Appellant, if they were talking about their personal lives, they were allowing inmates to hear information which should not be discussed in their presence, especially if the deputy knows that the inmate has "affection" for him and has been flirtatious.

Appellant's claim that [redacted] gave him the greeting card but did not say who it was from, but merely said, "I found this," is inconsistent with other statements he has made. He had said that he didn't remember what [redacted] had said; he also said that [redacted] had said that it was from "your friend or homie." He claimed that he only had a "suspicion" that it was from [redacted] He then claimed that he had no idea who the card was from. He didn't recall telling the IA investigator that he knew the card was from [redacted] but he was confused by the investigator' s questioning. He claimed that he would have turned it in if he had known it was for him, but when asked, "would it be important then to know if it was for you?", he replied that at the time there was no indication on it that it was for him, despite his prior statement that he had a suspicion that it was from [redacted] If he was given a card from an inmate and he didn't know the source (which is not the case; he knew it was from [redacted], his own words were that getting a card from an inmate was an incident that he should have reported. The fact that he did not report it reinforces the conclusion that he had an inappropriate relationship with [redacted].

Moreover, his claim that the investigator's questioning was confusing him is not credible. Appellant is a long-term deputy and police officer, he knew why he was being questioned, he had ample time to think about what he was going to say, and he had

representation during the interview. There is nothing about the questioning that could have confused his recall of something that had happened shortly before the interview was held. Given [redacted] credible testimony, coupled with Appellant's own words, the Department has established that Appellant received the greeting card and that he knew it was from [redacted]

Appellant conceded that it was wrong for him to retain the letters in his locker, rather than turning them in to his supervisor. His excuse for not doing so was because he had no authority for the overtime that would have been needed to do the paperwork. However, he made no attempt to seek authorization, and made no effort to do so the following day, when [redacted] trip to the court was canceled. His claim that he was so focused on his upcoming vacation that he forgot about the letters is not credible.

Appellant acknowledged that he let [redacted] and other inmates use his first name. His reason for doing so was that, "I'd rather have an inmate call me by my first name than call me an asshole, call me a son of a bitch, or call me a bastard." Clearly these were not the only options he had, and it is not a credible rationale for allowing inmates to speak to him on a first name basis.

Appellant stated that he deliberately did not report [redacted] behaviors because he did not want to get her in trouble, by which he meant losing privileges or that she would be written up. He also claimed that he didn't report [redacted] behavior because of her "mental condition," and that she "scared" him. He went on to say that if he had reported her, she wouldn't be able to talk to her kids and "what's not to stop her from stabbing me or biting me or causing me injury, because now according to inmates I'm a snitch. Snitches in incarceration get killed. I have to strap her in. I literally am inches away from her when I'm strapping her seat belt. I thought she could do something

because of her mental stability." He said he refrained from reporting her because he feared she may do him harm.

Appellant argued that there was no violation of the fraternization policy because there is no evidence that he did favors for [redacted] Appellant's testimony clearly establishes that he did a significant favor by not reporting behavior and conduct that he knew he should have reported. While he claimed that he failed to make such reports because he didn't want to be a "snitch," and because he was afraid of [redacted] his explanations are not credible. It is far more likely that he didn't do what he should have done because he "didn't want to get her in trouble." That reason alone can only be explained by his having a personal relationship with [redacted] and that relationship is what the fraternization policy is designed to prevent.

Appellant's reference to revenge that incarcerated snitches may suffer, underscores the length to which Appellant tried to avoid acknowledging his relationship with [redacted] At one point in his testimony he said that he cared about her well-being (he didn't want to get her in trouble or lose privileges), and at the same time he was so scared of her that he feared that she might stab or bite him. Of course, had he followed the rules that he was fully aware of, he would not have had further contact with her (e.g., he could have transferred to a different assignment, or have his partner deal with her). It is also not credible that a very muscular and fit deputy would feel afraid of a disabled small woman. Most importantly, his alleged fear of being viewed as a snitch is totally contrary to his role as a deputy. If he actually believed that (which I do not believe to be the case), he should not be working as a deputy, as it would severely compromise his ability to serve. He has been a police officer and deputy for almost 20 years, and no doubt has confronted situations that were scarier than putting seatbelts on a disabled

woman, including being a SWAT leader in Compton.

Appellant had no credible excuse or explanations for his behavior with [redacted] Taken together with the fact that he kept [redacted] letters in his locker and accepted a greeting card from her, support a finding that he had an inappropriate personal relationship with [redacted] even if [redacted] testimony is disregarded as unreliable. The Department has met its burden of proving the fraternization charges without consideration of [redacted] testimony.

The allegation that he engaged in sexual intercourse with [redacted] is more problematic. There is no physical evidence supporting the allegation. While the investigation found semen samples in the van, none of them matched Appellant. Thus, the only evidence to support the allegation is [redacted] testimony. While there are many inconsistencies in [redacted] and his testimony that suggest that Appellant did engage in sexual intercourse with her, the Department has not established this allegation by a preponderance of the evidence.

Similarly, the evidence regarding [redacted] threatening [redacted] by pointing a gun at her is dependent upon [redacted] credibility. She provided multiple versions of what [redacted] did with the gun, ultimately claiming that he didn't point the gun at her. Rather, he just took the gun from between the seats and put it on his person. Once again, [redacted] multiple accounts coupled with Appellant's description of what transpired suggests that [redacted] original account was closer to the truth than her testimony at the hearing. However, the evidence is insufficient to establish by the preponderance of the evidence that Appellant witnessed [redacted] threatening [redacted] by pointing a gun at her.

The Department also charged appellant with making false statements in violation of Manual of Policy and Procedures, Section 3 – 01/0 40.75. As set forth above,

Appellant's testimony and the statements made during the internal affairs investigations are replete with false statements about his relationship with [redacted]

Is the discipline appropriate?

Given that I have concluded that Appellant had an ongoing relationship with [redacted] and that he admittedly compromised his obligations to report her conduct, discharge is an appropriate discipline. Although Appellant acknowledged that he should have dealt with the letters differently, his excuses for not doing so are not credible. Instead, his explanations and excuses made matters worse in stating that he didn't want to be a "snitch" and that he was scared that he would suffer harm if he followed policies of which he was fully aware. In his effort to avoid culpability, Appellant made false statements during the internal affairs investigation in violation of Department policy.

While Appellant may have expressed regrets, and that he had learned a lesson from this experience, he took no responsibility for his conduct. Rather, Appellant minimized his actions by fabricating excuses that had no credibility. The Department properly asserts that Appellant's "words and disturbing mind set" support the decision to terminate his employment. Moreover, the gravity and extent of Appellant's violation of the Department's fraternization policy, coupled with the false statements made during the investigation, warrants a conclusion that Appellant's discharge was appropriate.

FINDINGS OF FACT

The following Findings of Fact are made:

1. Appellant has served as a competent police officer and deputy Sheriff from 1992 to the date of his termination.

2. In 2011 Appellant was assigned to the Transportation Bureau of the Department. His duties were to transfer wheelchair-bound inmates from jail to courts or medical facilities.

3. Appellant's partner on the wheelchair van was Deputy [redacted]

4. From December 2010 to October 4, 2011, Appellant and [redacted] frequently transferred [redacted] to court from jail.

5. During transfers [redacted] told Appellant about her family and other personnel matters and spoke to him using his first or middle names.

6. [redacted] knew personal information about Appellant, either from him sharing that information with her or from her hearing Appellant and [redacted] talking about such matters in a manner that she could hear.

7. [redacted] wrote letters to Appellant expressing her love for him; the letters were found in Appellant's personal locker.

8. Appellant knew that the letters were from [redacted] and that they were for him.

9. [redacted] gave inmate young [redacted] a greeting card for her to give to Appellant. [redacted] gave Appellant the card and told him that it was from [redacted]

10. Appellant believed that the tattoos [redacted] and [redacted] on [redacted] referred to him.

11. Appellant recognized that [redacted] had affection for him and that she flirted with him long before October 2011, but took no steps to report her conduct.

12. Appellant refrained from reporting [redacted] behavior because he did not want to get her in trouble.

13. Because of Appellant's relationship with [redacted] he failed to report [redacted] conduct.

14. There is insufficient evidence to establish that Appellant had sexual relations with [redacted]

15. There is insufficient evidence to establish that Appellant observed and failed to report that [redacted] threatened [redacted] by pointing a gun at her.

CONCLUSIONS OF LAW

The following Conclusions of Law are made:

1. Appellant's conduct violated the Manual of Policy and Procedures Sections 3-01/030.05, General Behavior; and/or 3-01/050.85, Fraternization; and/or 3-01/050.10, Performance to Standards.

2. During the course of the internal affairs investigation, Appellant made false statements in violation of the Manual of Policy and Procedures, Section 3 – 01/0 40.75

RECOMMENDATION

It is recommended that the Civil Service Commission adopt the following Order:

Appellant's appeal is denied.

Dated: September 23, 2014

PAUL CROST
HEARING OFFICER

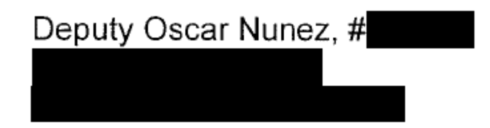


County of Los Angeles
Sheriff's Department Headquarters
4700 Ramona Boulevard
Monterey Park, California 91754-2169



LEROY D. BACA, SHERIFF

April 17, 2013



Deputy Oscar Nunez, #[redacted]
[redacted]

Dear Deputy Nunez:

On March 21, 2013, you were served with a Letter of Intention indicating your right to respond to the Sheriff's Department's pending disciplinary action against you, as reported under File Number IAB 2299474. You were also advised of your right to review the material on which the discipline was based.

You did exercise your right to respond. However, after review and consideration of the response submitted to support your position, it has been determined that the recommended discipline is appropriate.

You are hereby notified that you are discharged from your position of Deputy Sheriff, Item No. 2708A, with this Department, effective as of the close of business on April 16, 2013.

An investigation under File Number IAB 2299474, conducted by Internal Affairs Bureau, coupled with your own statements, has established the following:

1. That in violation of Manual of Policy and Procedures Sections 3-01/030.05, General Behavior; and/or 3-01/050.85, Fraternization; and/or 3-01/050.10, Performance to Standards; on or about July 19, 2011 through and including October 12, 2011, while assigned to the Court Services Transportation Bureau, you failed to conform to the work standards established for your position, and fraternized with and/or had an inappropriate and/or romantic and/or sexual relationship with a female inmate, [redacted], as evidenced by, but not limited to:

a) engaging Inmate [redacted] in personal conversations about your family, job, hobbies and personal interests, and/or allowing her to address you by your first name, and/or;

b) hugging, and/or holding hands/fingers, and/or kissing, and/or engaging in sexual activity with Inmate [redacted] inside a Court Services Transportation Bureau van and/or;

c) performing favors for, and/or receiving personal letters from Inmate [redacted], and/or failing to report such activity to a supervisor.

Your actions of fraternizing with an inmate under the care and control of the Sheriff's Department are completely contrary to this Department's Core Values, Mission and Creed and by those actions you have brought discredit and embarrassment upon yourself and the Los Angeles County Sheriff's Department.

2. That in violation of Manual of Policy and Procedures Sections 3-01/030.05, General Behavior; and/or 3-01/030.10, Obedience to Laws, Regulations, and Orders; and/or 3-01/050.10, Performance to Standards, on or about August 2011, you failed to conform to the work standards for your position, when you observed your partner, Deputy [redacted], point a handgun at [redacted], and/or verbally threaten her, without taking action, objecting to or attempting to prevent the incident, and/or failing to report the incident. By your actions, you have brought discredit and embarrassment upon yourself and the Sheriff's Department.

3. That in violation of Manual of Policy and Procedures Section 3-01/040.75, Failure to Make Statements and/or Making False Statements during Departmental Internal Investigations, on or about November 1, 2012, you made false and/or incomplete statements to Departmental investigators, as evidenced by, but not limited to:

a) stating that you did not have a close and/or intimate relationship with Inmate [redacted] when she was incarcerated in the Los Angeles County Jail system in 2011, and/or words to that effect, and/or;

b) stating that you never held hands, and/or kissed, and/or engaged in sexual activity, and/or touched Inmate [redacted] in an intimate manner while she was incarcerated in the Los Angeles County jail system in 2011, and/or words to that effect.

Additional facts for this decision are set forth in the Disposition Worksheet, Investigative Summary and Investigative Packet which are incorporated herein by reference.

In taking this disciplinary action, your record with this Department has been considered, and a thorough review of this incident has been made by Department executives, including your Unit and Division Commanders.

You may appeal the Department's action in this matter pursuant to Rules 4.02, 4.05 and 18.02 of the Civil Service Rules.

You may, if you so desire, within fifteen (15) business days from the date of service of this notice of discharge, request a hearing on these charges before the Los Angeles County Civil Service Commission, 222 North Grand Avenue, Los Angeles, California 90012.

The Sheriff's Department reserves the right to amend and/or add to this letter.

Sincerely,

LEROY D. BACA, SHERIFF

RICHARD J. BARRANTES, CHIEF
COURT SERVICES DIVISION

Note: Attached for your convenience are excerpts of the applicable areas of the Manual of Policy and Procedures and Civil Service Rules.

RJB:AEA:jp

c: Advocacy Unit
Crystal M. Miranda, Captain, Transportation Bureau
Internal Affairs Bureau
Office of Independent Review (OIR)
Kevin E. Hebert, Captain, Personnel Administration